

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	CP-284-2008
COMPLAINT INVESTIGATOR:	Sheron Cochran
DATE OF COMPLAINT:	October 23, 2007
DATE OF REPORT:	November 21, 2007
REQUEST FOR RECONSIDERATION:	No
DATE OF CLOSURE:	January 11, 2008

**COMPLAINT ISSUES:**

Whether the Greater Jasper Consolidated Schools and the Dubois-Spencer-Perry Exceptional Children's Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the Student's individualized education program (IEP) as written, specifically in the Student's math class.

511 IAC 7-27-4(a)(3) by failing to convene a case conference committee (CCC) meeting upon request of a parent.

**FINDINGS OF FACT:**

1. The Student is twelve years old and is eligible for special education and related services as a student with autism and a communication disorder.
2. The Student's current IEP was reviewed and revised on September 13, 2007. The case conference committee (CCC) meeting report indicates the purpose was to discuss reevaluation data and the behavior intervention plan (BIP).
3. On September 14, 2007, the Complainant e-mailed Greater Jasper Consolidated School administrators, the Dubois-Spencer-Perry Exceptional Children's Cooperative Special Education Director, the Teacher of Record, and the School Psychologist stating "there has been some confusion on how to "handle [the Student] to the teachers....I realize we just had an IEP meeting yesterday had I known some of the classroom issues at that time we could have addressed them all then too. I feel we need to 'nip it in the bud' now rather than later."
4. On September 14, 2007, the Principal responded to the Complainant concerns by stating, "I think that initially the goal was to do our best to make sure [the Student] stayed in class and to have our staff build a rapport with him...Yesterday was a very productive meeting and we now have an action plan in place that seems to be acceptable to all concerned...I admit that there has been some confusion as to how to handle [the Student] in certain situations. One key area that our staff has focused on is not singling [the Student] out in an attempt to avoid triggering frustration and anxiety. We are meeting with all of [the Student's] teachers on Monday to discuss how to proceed and to make sure we are all on the same page."
5. On September 14, 2007, the Complainant responded to the Principal's e-mail stating, "Agreed on your points. I hope you understand from our perspective it is frustrating to hear that [the Student] is not behaving in the classrooms. We too feel that we are headed in the right direction."

6. A case manager/behavioral consultant worked with teachers, students, and the Student to help bridge relationships and understand how to “know the Student.” Each teacher was given a copy of the IEP and the BIP for the Student.
7. The Student’s BIP states “Allow [the Student] to volunteer an answer when [the Student] is ready, do not call on [the Student] until then” in the Support Plan, Stimulus Supports.
8. On September 14, 2007, e-mails between the Complainant and the math teacher indicate on-going communication efforts between the teacher and the Complainant. The e-mails discuss concerns about homework assignments and when not to call upon the Student. The math teacher stated, “She had not been prompting the Student (individually) to write down assignments in the notebook because she did not think she was suppose to.” The Complainant responded back to the math teacher “I personally want [the Student] to be prompted like all other students and if you are checking other student’s assignment books, it should be done for [the Student] too.”
9. E-mails between the Complainant and the Math Teacher on September 22, 24, and 28, 2007, indicate more concerns and confusion about expectations regarding work assignments at school and at home. The e-mail on September 28, 2007 indicates that the Complainant’s spouse observed the Student in the math class on September 25, 2007. During the observation, the Complainant’s spouse suggested some new accommodations. The Math Teacher indicated that adding accommodations to the IEP would require a CCC meeting. The Complainant requested a CCC on September 28, 2007 via e-mail. The Complainant provided three suggested dates: October 2, October 3, and October 4, 2007.
10. The Special Education Director’s “Response to the Complaint” indicates that the Principal contacted the Complainant and informed the Complainant that the teachers, specifically the Math Teacher, would be informed of the Complainant’s concerns and it was agreed that a CCC meeting would be convened after the Parent Teacher Conferences. The Principal thought that the Complainant seemed satisfied with the response. The Complainant requested a CCC meeting via e-mail on October 14, 2007 “to add accommodations in the IEP for math class for the Student] given the recent events.” The CCC was convened on October 18, 2007. According to both the school personnel and the Complainant, the meeting on October 18<sup>th</sup> was not completed. The conference was to reconvene on October 19, 2007 at 8:15 a.m. The CCC was not reconvened due to parent cancellation.
11. On October 12, 2007, the Student received a five-day out of school suspension for writing a threatening note to the math teacher. This was the eighth day of suspension in the school year. The Student returned to school on October 19, 2007.
12. School personnel received an e-mail on October 18, 2007 from the Complainant ceasing all communication with school personnel.
13. The Special Education Director’s “Response to the Complaint” provides the following information about the day the Student and the Complainant felt that the Math Teacher put the Student on the spot and called on the Student in violation of the BIP. The Special Education Director indicates that both the Complainant and the Math Teacher recognize the goal is not to single the Student out or call on the Student if the Student has not volunteered. The Special Education Director states, “The day [the Student] wrote the math teacher a note, each student was taking a turn giving answers to the math questions in the textbook and she was going row by row, student by student, and when it came to [the Student], she did not want to single him out and skip over him when she got to him, she simply said ‘[Student], do you have an answer

for us' or something like this." According to the Special Education Director, the Math Teacher believed she was following the IEP.

14. In the e-mail dated October 16, 2007 to School Administrators, the School Psychologist, the Special Education Director, and the Teacher of Record, the Complainant stated that the Student's IEP was not being followed on the day that the Student wrote the note to the Math Teacher.
15. The e-mail from the Complainant to the Special Education Director on November 9, 2007 indicates that the Complainant was admitted to a Behavioral Care Center with a Residential Program on November 9, 2007.

## **CONCLUSIONS:**

1. Finding of Fact # 7 indicates that the Student's BIP states "Allow [Student] to volunteer an answer when [the Student] is ready, do not call on [the Student] until then." Finding of Fact # 13 indicates that on the day the Student wrote a note to the Math Teacher each student was taking a turn giving answers to the math questions in the textbook. The Math Teacher was going row by row and student by student asking each student to answer the question in the textbook. Finding of Fact # 14 indicates that the Complainant and the Student thought that this teaching strategy was in violation of the BIP since when it was the Student's turn to be called upon; the Student did not volunteer an answer. According to the Math Teacher, each student was being asked to respond and the Math Teacher did not want to single the Student out based on Finding of Fact #8. The statement in the BIP does not appear to apply in this situation since all students were being called upon row by row. The BIP contains a Support Plan with ambiguous language that resulted in misinterpretations and misunderstandings between the Complainant and the School. Where an ambiguity exists in an IEP/BIP, the ambiguity will be construed against the School that is responsible for its development and implementation. The IEP and BIP must have sufficient clarity so that both the parents and school personnel understand what Supports the Student is to receive. As a result, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact # 3 indicates that the Complainant emailed school personnel on Friday, September 14, 2007, one day after the IEP had been revised, to indicate concerns about teachers following the IEP and suggesting the need "to nip it in the bud." The Principal responded back on the same day indicating that the IEP was revised the day before and a meeting was planned to go over the IEP with all of the Student's teachers on Monday. The Complainant responded to the Principal indicating the Complainant agreed with the Principal's points indicating that "we are headed in the right direction." The Complainant's comments indicate agreement in addressing the Complainant's concerns. The Complainant did not request a CCC meeting in response to the Principal's e-mail. Therefore, no violation of 511 IAC 7-27-4(a)(3) is found.
3. Finding of Fact # 9 indicates the Complainant requested a CCC meeting in an e-mail dated September 28, 2007. Finding of Fact # 10 indicates that the Principal telephoned the Complainant to discuss scheduling a CCC meeting. The Principal indicated that all of the Student's teachers, especially the Math Teacher, would be informed about the Complainant's concerns and it was agreed that the CCC would be convened after the Parent Teacher Conferences. The Principal thought the Complainant seemed satisfied with not scheduling the CCC until after the Parent Teacher Conferences. The Complainant sent an e-mail on October 14, 2007 requesting a CCC to add accommodations to the IEP for math class. The CCC was convened on October 18, 2007 (14 instructional days from the initial request). Therefore, no violation of 511 IAC 7-27-4(a)(3).

**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:**

Greater Jasper Consolidated Schools and the Dubois-Spencer-Perry Exceptional Children's Cooperative shall:

1. E-mail correspondence indicates that the Student has been admitted to a Behavioral Care Center. It is not clear if the Student has withdrawn from Greater Jasper Consolidated Schools and the Dubois-Spencer-Perry Exceptional Children's Cooperative. If the student returns to Greater Jasper Consolidated Schools and the Dubois-Spencer-Perry Exceptional Children's Cooperative to receive a free appropriate public education, convene a CCC meeting to revise the BIP with specific attention to and a clear statement of Stimulus Supports in the Support Plan that can be carried out by the Student's teachers and will not be misunderstood by the Complainant and school personnel. Provide documentation to the Division regarding the Student's BIP and placement status **by December 14, 2007.**