

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-299-2008
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	November 13, 2007
DATE OF REPORT:	December 6, 2007
REQUEST FOR RECONSIDERATION:	Yes/Late/Not Revised
DATE OF CLOSURE:	February 11, 2008

COMPLAINT ISSUES:

Whether the Scott County School District 1 and the Madison Area Educational Special Services Unit violated:

511 IAC 7-27-7(a) with regard to implementing the student's (Student) individualized education program (IEP) as written: specifically by:

- a) failing to follow the Bridge's technique as stated in the Student's behavioral intervention plan (BIP);
- b) failing to provide the Student with a male paraprofessional;
- c) failing to ensure the Student's transit time is no more than 30 minutes per trip to and from school; and
- d) failing to transport the student privately.

FINDINGS OF FACT:

1. The Student is 18 years old and attends the School as a student with the exceptionality of autism.
2. The case conference committee (CCC) met on February 27, 2007, and wrote an IEP for the Student, which also included a BIP. The Student began the 2007-08 instructional year with this IEP.
3. The CCC met on September 4, 2007. The first page of the Case Conference Summary/IEP states that this was an annual case review and IEP review. The BIP developed on February 27, 2007, includes using the Bridges Technique; and remained in effect as a result of this CCC meeting. Page nine of the September 4, 2007, IEP includes the following statement under SPECIFIC SPECIAL EDUCATION SERVICES(S) THE STUDENT WILL RECEIVE: (Including any Related Services and the intensity/duration of same): "All services remain as stated in IEP dated 2-27-07."
4. The Student's BIP lists the Bridges Technique as Intervention #1, and states that it will be used if the Student does not respond to verbal redirects and a countdown to 60 using a calming voice, in addition to using a visual timer.
5. A brochure for the Bridges Technique describes it as "a unique and comprehensive training program of verbal and physical interventions."
6. The Teacher stated that there are different aspects to the Bridges Technique. It includes the following: verbal redirecting techniques; talking with a student and giving options; and physical restraint. She reported that the Student averages at least one behavioral issue per day that requires completing a Student Behavior Form (FORM). The Teacher shared that although the Bridges Technique may not specifically be written in a FORM as the action taken, some aspect of the Bridges Technique has actually been implemented, such as verbal redirect. She reported that she specifically writes Bridges Technique on the Form when the Student has required physical restraint as she believes that looks better than having "physical restraint" written on the Form.

7. The Director submitted two copies of completed Forms, both dated October 1, 2007, and generated as the result of behavior incidents involving the Student. Both Forms state that the Bridges Technique was the "action taken."

8. The Director's Response states that there have been recent resignations of staff and as a result there are now, "two new aides who are not certified in Bridges, therefore not able to assist using Bridges techniques." The Director's Response continues to state "The teacher and the remaining trained aide continue to use Bridges for the safety of the child." The Director contends in her Response that "Bridges is a program selected at the discretion of the administration similar to curriculum materials." She further contends that "The decision of which program will meet the needs of the student in the educational setting will be made by the administration and discussed with the parent at the case conference."

9. The Case Conference/ACR Discussion Notes (Discussion Notes) found in the Student's February 27, 2007, IEP state: "[Student's] one-on-one will be re-assigned in the form of male to meet her aggressive needs and the classroom provides female counterparts to assist [Student] with personal needs."

10. The last day of employment for the Student's male one-on-one (Paraprofessional) was September 26, 2007. The male Paraprofessional was replaced with a female Paraprofessional, who continues to be employed in this position. The Teacher reported that although the Student has a female Paraprofessional, her frequent physical aggressive behavior warrants the strength of a male.

11. The Director stated in her Response that "Personnel selection is the responsibility of the administration[;]" and that "[t]he IEP only states the child will be assisted."

12. The Discussion Notes found in the February 27, 2007, IEP state "At this current time [Student] cannot tolerate any bus ride longer than 20-30 minutes."

13. The Complainant reported that the bus picks up the Student at home in the morning between 6:45 and 7:05. The instructional day begins at 8:00 a.m. The Complainant further reported that the Student returns home in the afternoon between 3:20 and 3:40. The instructional day ends at 2:30 p.m.

14. The Teacher reported during her December 3, 2007, telephone interview with the Complaint Investigator that the Student has had three bus drivers this instructional year, with the most recent change occurring approximately "three weeks ago." Prior to the third bus driver taking over the Student's bus route, the Student arrived at School at 7:35 a.m., and boarded the bus to go home in the afternoon between 2:45 and 3:00 p.m. The Student now arrives at School in the morning at 7:45, and boards the bus to go home in the afternoon at 2:30 p.m.

15. The Discussion Notes found in the February 27, 2007, IEP state "Currently the district is supplying [Student] with a private bus ride." These Discussion Notes further state "Should the private ride prove to be unsuccessful the district will offer mileage reimbursement for any family member that would be interested in transporting [Student] if parents agree that this is the best alternative to the bus."

16. The Permission for Placement page of the February 27, 2007, IEP includes the following statement. "Spec. Transport/short ride..."

17. The Director stated in her Response that the Student "currently rides the bus 20-30 minutes to and from school[;]" and when the Student "is upset, she is driven directly home with no other stops." The Director's Response further included that the IEP states the Student will have a shortened bus ride.

18. The Teacher reported that there are six to seven other students who ride the same bus as the Student.

19. A Special Transportation form that was completed at the February 27, 2007, CCC meeting and is part of the IEP written at that same meeting, is attached to the September 4, 2007, IEP. This form includes the statement "Shortened Ride." This form also says "special bus/with aide."

CONCLUSIONS:

1. Findings of Fact #2, #3, #4 indicate that the Bridges Program is to be implemented as part of the Student's BIP. Findings of Fact #6, #7, and #8 indicate that although not all staff is trained to use the Bridges Program, it is being utilized as a means to address the Student's maladaptive behaviors. No violation of 511 IAC 7-27-7(a) has occurred with respect to the school failing to implement the Student's IEP by failing to follow the Bridges Technique as stated in the Student's BIP.
2. Finding of Fact #10 indicates that the Student had a male Paraprofessional until September 26, 2007, and this position was then filled by a female Paraprofessional who currently assists the Student. Finding of Fact #11 indicates the Director's contention that the Student's IEP does not specify the required gender of the Paraprofessional. However, Findings of Fact #3 and #9 indicate that the Student should be receiving one-to-one support by a male Paraprofessional, as stated in the Student's current IEP. A violation of 511 IAC 7-27-7(a) has occurred with respect to the School failing to implement the Student's IEP as written by failing to provide the Student with a male paraprofessional.
3. Findings of Fact #3, #12, #16, #17, and #19 indicate that the Student is to have a short bus ride which is no longer than 20-30 minutes. Findings of Fact #13 and #14 indicate that the Student's transit time is longer than the time specified in the IEP. A violation of 511 IAC 7-27-7(a) has occurred with respect to the School failing to implement the Student's IEP as written by failing to ensure the Student's transit time is no more than 30 minutes per trip to and from school.
4. Findings of Fact #3, #15, #16, and #19 indicate that the Student requires a private mode of transportation. Findings of Fact #17 and #18 indicate that the Student is being transported with other students and not privately, which is contrary to the IEP. A violation of 511 IAC 7-27-7(a) has occurred with respect to the School failing to implement the Student's IEP as written by failing to transport the student privately.

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 Scott County School District and the Madison Area Educational Special Services Unit shall:

1. Employ a male Paraprofessional to provide one-to-one services to the Student. Documentation in the form of a copy of the employee application, verification of employment that includes the hire date and the timesheets for the month of January 2008 shall be submitted to the Division of Exceptional Learners no later than **February 8, 2008**.
2. Submit an assurance statement stating that the Student will be transported to and from school in less than 30 minutes each instructional day. The assurance statement must be signed by the Director, the local Superintendent of Schools, the local Director of Transportation, and the Bus Driver or private provider of transportation services. Additionally, the Bus Driver or private provider of transportation shall submit a written log indicating the Student's daily pick-up and delivery times for the month of January 2008. The assurance statement and written log must be received by the Division of Exceptional Learners no later than **February 8, 2008**.
3. Submit an assurance statement stating that the Student will be transported privately to and from school each instructional day. The assurance statement must be signed by the Director, the local

Superintendent of Schools, the local Director of Transportation, and the Bus Driver or private provider of transportation. Additionally, the Bus Driver or private provider of transportation shall submit a written log verifying that the Student has been transported privately to and from school each instructional day for the month of January 2008. The assurance statement and written log must be received by the Division of Exceptional Learners no later than **February 8, 2008**.