

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-300-2008
COMPLAINT INVESTIGATOR: Demaris Stewart
DATE OF COMPLAINT: November 13, 2007
DATE OF REPORT: December 7, 2007
REQUEST FOR RECONSIDERATION: No
DATE OF CLOSURE: February 21, 2008

COMPLAINT ISSUES:

Whether the MSD Perry Township, the Beech Grove Community Schools, the MSD of Decatur Township, the Franklin Township Community School Corporation and RISE Special Services violated:

34 CFR §300.134 by failing to ensure timely and meaningful consultation, of the issues specified in 34 CFR §300.134(a) thru (e), with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children.¹

FINDINGS OF FACT:

1. During a November 19, 2007 telephone conversation with the Director of Special Education of RISE, the Director acknowledged that RISE and the public agencies that are part of RISE have not yet held consultation meetings with representatives of the private schools and parent representatives to fulfill requirements under the Individuals with Disabilities Education Act of 2004.

CONCLUSIONS:

1. Finding of Fact # 1 indicates that RISE and the school corporations that are part of RISE acknowledged failure to hold consultation meetings with private school representative and representatives of parents. Therefore, a violation of 34 CFR § 300.134 is found.

The Department of Education, Division of Exceptional Learners requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD Perry Township, the Beech Grove Community Schools, the MSD of Decatur Township, the Franklin Township Community School Corporation and RISE Special Services (the public agencies) shall:

Convene consultation meetings no later than **January 15, 2008**, with private school representatives and representatives of parents of parentally placed private school children with disabilities to discuss the following:

¹ The issue was changed to reflect the language pursuant to the Individuals with Disabilities Education Improvement Act, which became effective July 1, 2005.

1. The child find process, including: (1) how private school students suspected of having a disability will be located, identified, and evaluated; and (2) how parents, teachers, and private school officials will be informed of the child find process.
2. The determination of the proportionate amount of IDEA 2004 Part B federal funds available to serve private school students, including how the proportionate amount of those funds was calculated. To calculate the proportionate share of Part B Funds for school-aged children, the public agency must, using data from the previous calendar year's December 1 count, divide the number of eligible parentally placed private school students by the total number of students with disabilities (public school and private school students). The quotient obtained is then multiplied by the public agency's current Part B, §1411(f) Sub-grant. The product equals the public agency's proportionate share amount of Part B Funds that must be spent on eligible parentally placed private school students. To calculate the proportionate share of Part B Funds for students aged 3 thru 5, the percentage quotient (number of 3 thru 5 year old private school students divided by the total number of 3 thru 5 year old special education students) is multiplied by the Part B, §1419(g) federal sub-grant for students aged 3 years of age through 5 years of age.
3. An explanation of how the consultation process between the public agency, private school representatives, and parent representatives of private school students will operate throughout the school year to ensure that private school students with disabilities identified through the child find process can equitably participate in special education and related services.
4. The public agency must discuss how, where, and by whom special education and related services will be provided for private school students with disabilities, including:
 - The types of services, which may include direct services and alternate service delivery mechanisms.
 - How special education and related services will be offered to all private school students if the proportionate amount of Part B Funds is insufficient to serve all private school students with disabilities.
 - How and when those decisions will be made.
5. If the public agency disagrees with the views of the private school officials on the provision of services or types of services, the public agency must explain how it will provide a written explanation of the reasons why the public agency chose not to accept the views of the private school officials.

Documentation of meaningful consultation of the five subjects set forth above must be submitted to the Division **no later than 30 calendar days** after each consultation meeting.

At the conclusion of the consultation meetings, the public agency must obtain a written affirmation that:

1. Affirms that the consultation meeting with parent representatives and representatives of nonpublic schools was timely and meaningful.
2. Affirms that the five required subjects were discussed.
3. Is signed by the representatives of the participating nonpublic schools (signatures of nonparticipating public agencies need not be obtained).

Documentation of affirmations must be submitted to the Division **no later than 30 days** after each consultation meeting. If the representatives of the nonpublic schools who participated in the

consultation meeting do not provide written affirmation to the public agency **within 20 days** of the consultation meeting, the public agency must forward documentation this non-affirmation to the Division **no later than 30 days after the meeting is held**.

Finally, documentation shall be submitted to the Division **by February 1, 2008**, explaining how the public agencies will in the *future* conduct consultation meetings during the actual design and development of special education and related services provided to eligible parentally placed private school students.