

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-319-2008
COMPLAINT INVESTIGATOR:	Brenda Alyea
DATE OF COMPLAINT:	January 15, 2008
DATE OF REPORT:	February 12, 2008
REQUEST FOR RECONSIDERATION:	N/A
DATE OF CLOSURE:	April 2, 2008

COMPLAINT ISSUES:

Whether the M S D Perry Township and the RISE Special Services violated:

511 IAC 7-27-6(a)(10) by failing to identify in the student's individualized education program (IEP) the student's placement in the least restrictive environment.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written specifically by failing to
(a) provide the required amount of speech services; and
(b) provide the required amount of occupational therapy consultation.

511 IAC 7-27-4 by failing to utilize the case conference committee to review, revise, and develop the student's IEP.

FINDINGS OF FACT:

1. The Student, 8 years old, is identified as a student with an Other Health Impairment and has been determined eligible for special education and related services.
2. The Student moved from Ohio during the summer of 2007 and currently resides with his maternal grandmother and grandfather. The student's mother currently resides in Ohio. A custodial statement and agreement third party custody form is located in the Student's file, which indicates that the grandparents have agreed in writing to assume all the duties and be subject to all the liabilities of the Student.
3. At the time the Student enrolled in M S D Perry Township Schools, RISE Special Services noted that a comprehensive evaluation had been completed in March 2005 at which time the Student was 5 years old; RISE Special Services procured consent to conduct a current comprehensive evaluation.
4. On August 23, 2007 a Case Conference Committee meeting was held to review programming at the previous school and formulate an Individualized Education Program for the Student. In the Special Factors section of the IEP, it was noted that a Functional Behavioral Assessment (FBA) was to be conducted and a Behavioral Intervention Plan (BIP) developed upon completion of the assessment. The IEP also indicated that the Least Restrictive Environment was a self-contained classroom and the Student was to receive Speech services 2 times per week for 20 minutes per occurrence. The IEP was signed by both grandparents. According to the IEP dated August 23, 2007, Speech is the only therapy listed.
5. A FBA was conducted including a review of records from the previous school and a BIP was written, dated August 30, 2007. The BIP included target behaviors, goals, positive interventions/strategies, consequences and rewards, replacement behaviors, and skill teaching needs.

6. The consent to conduct an educational evaluation was signed by the maternal grandmother on August 23, 2007. The evaluation was conducted over the period of time between August 24, 2007 and September 17, 2007.
7. An Occupational Therapy evaluation was completed on September 28, 2007, as part of the comprehensive evaluation.
8. A Case Conference Committee meeting was held October 8, 2007, by request of the grandmother to review new information, discuss evaluation issues, least restrictive environment issues, behavioral issues and to choose a date for another Case Conference Committee meeting.
9. An update on the FBA was conducted on September 21, 2007.
10. An addition to the FBA was conducted to include additional behavioral issues and the BIP was modified, dated October 12, 2007. The behavior plan includes sections mentioned in Findings of Fact #5.
11. A Case Conference Committee meeting was held November 12, 2007 to review additional evaluative material. The IEP was signed by both the grandmother and mother.
12. The IEP dated November 12, 2007, indicates that Occupational Therapy consultation is to be conducted for 60 minutes per semester. According the IEP dated November 12, 2007, Speech therapy services are to be provided two times per week for 20 minutes.
13. A Case Conference Committee meeting was held December 7, 2007, to discuss behavioral problems and appropriateness of placement. The BIP was reviewed at the meeting and updated.
14. A Case Conference Committee meeting was held January 10, 2008, with the grandmother in attendance to review the results of observations conducted by the behavioral consultant.
15. According to the document entitled (Occupational) Therapy Progress Notes/Attendance, consultation has occurred five times since November 12, 2007 for a total of 55 minutes.
16. According to the document entitled Speech and Language Therapy Daily Progress Notes, the student was seen for therapy the following days in September: 12, 13, 19, 20, 26, 27; the following days in October: 3, (student absent October 4), 10, (student absent October 11), 17, 25, 31; and the following days in November: 1, 6, 8.
17. According to the document entitled Speech and Language Therapy Daily Progress Notes, the student was seen for therapy the following days in November after the Case Conference Committee: 13, 14, 15, 21, 27, 29; the following days in December: 5, 6, 12, 13, 19, 20; and the following days in January 3, 9, 10, (student had behavior issues in classroom on the 16th), 17. The SLP was out January 23, and the Student left school early on January 24.

CONCLUSIONS:

1. The IEP dated August 23, 2007, indicates that the Least Restrictive Environment for the Student is Separate Class. The IEP dated November 12, 2007, indicates that the Least Restrictive Environment for the Student is Separate Class. Both IEPs are signed by the grandparent. Therefore no violation of 511 IAC 7-27-6(a)(10) is found.
- 2a. The IEP dated August 23, 2007, indicated that Speech Therapy was to be provided two times per week for twenty minutes with a duration start date of August 27, 2007. The first therapy progress

note was dated September 12, 2007. The week of August 27, 2007 and the week of September 2, 2007, were not documented for Speech Therapy. Therefore a violation of 511 IAC 7-27-7(a) is found.

- 2b. The IEP dated November 12, 2007, indicated Occupational Therapy consultation was to occur for 60 minutes per semester. The semester officially ended December 20, 2007, with 55 minutes of consultation having occurred within a six week period of time. Therefore no violation of 511 IAC 7-27-7(a) is found.
3. Since August 17, 2007, the date of the release of information, the Case Conference Committee for this student has met for two complete IEP meetings, with the parent and/or grandparent in attendance as well as meetings to discuss further issues on October 8, 2007, December 7, 2007, January 10, 2008 with the parent and/or grandparent in attendance. Therefore no violation of 511 IAC 7-27-4 is found.

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:

M S D Perry Township and the RISE Special Services will reconvene a case conference committee meeting, no later than March 14, 2008 to determine compensatory services for the four missed speech therapy sessions.