

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-341-2008
COMPLAINT INVESTIGATOR:	Brenda Alyea
DATE OF COMPLAINT:	March 5, 2008
DATE OF REPORT:	April 17, 2008
REQUEST FOR RECONSIDERATION:	N/A
DATE OF CLOSURE:	May 12, 2008

COMPLAINT ISSUES:

Whether the New Albany-Floyd County Consolidated School Corporation violated:

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

- a) read the Student's tests to him;
- b) read classroom materials to the Student;
- c) provide 45 minutes of direct reading instruction to the Student;
- d) allow the accommodation of the Student's mother writing out the Student's homework;
- e) provide accommodations for the Student with respect to the Developmental Reading Assessment (DRA); and
- f) provide progress reports to the parent as described in the Student's IEP.

511 IAC 7-23-1(d) by failing to permit the parent to inspect and review any educational record of the parent's child from birth to eighteen (18) years of age that are collected, maintained or used by the public agency.

511 IAC 7-27-2(a) by failing to ensure that the case conference committee (CCC) meeting was scheduled at a mutually agreed upon date, time, and place.

An Extension of Time was granted on April 2, 2008 due to the complexities of the issues. The new Due Date of the final report was set for April 18, 2008.

FINDINGS OF FACT:

1. The Student, eleven years old, is identified as a Student with a Learning Disability, primary and Other Health Impairment, secondary, and has been determined eligible for special education and related services.
2. The Student's Individualized Education Program (IEP) dated February 9, 2007, and signed by the Complainant, indicates that accommodations are as follows (as related to oral instructions and scribing):
 - a. Student has directions read to him;
 - b. Questions are read to the Student;
 - c. Student has access to a scribe to write out response for essay questions.
3. On a second Modification and Accommodations page, (as related to oral instructions and scribing), the accommodations listed are:
 - a. Avoid penalizing for spelling errors, sloppy penmanship;
 - b. Permit student to select cursive or manuscript.
4. Documentation samples in the form of Teacher Notes and Daily Documentation Notes indicated dates on which tests during the 2007-2008 school year (to date), were read to the Student and scribed for the Student. Documentation samples of staff working directly with Student/small group encompassed dates

beginning August 28, 2007 and ending March 3, 2008.

5. Developmental Reading Assessment (DRA) documents, with notes attached per page, indicated pages that were scribed, the use of extended time and more than one test session. A copy of an email enquiry to the Publisher of DRA was used determine the calculation of extra time during assessment.
6. The Student's IEP, dated February 9, 2007, indicates:
Special Education Service: Resource Reading - 45 minutes, daily.
An Addendum to Case Conference Summary/IEP, dated August 17, 2007, indicates:
"Student will receive LD Inclusion for 45 minutes daily to address reading skills. Goals, objectives and adaptations from 2/9/07 conference are current and applicable. ISTEP/CTBS testing accommodations are current as well." The Complainant signed the Addendum on August 20, 2007.
The School submitted the daily schedule for the general education class in which the Student is enrolled: 1:30 – 3:00 Reading/Grammar/Writing
Footnote on schedule: Inclusion support is provided daily in spelling, science, social studies, reading, grammar and writing to provide support in reading/language arts, outlined in the IEP Addendum dated August 17, 2007.
Although classroom logs include reading activities and assistance in reading with other subjects such as science and social studies, reading instruction is not documented consistently.
7. The Complainant acknowledged that the School accepted homework that had been scribed by the Complainant, however, the Complainant felt that the School wanted the Student to write out his homework. Eight examples of homework were scribed by the Complainant. Documents show grades indicating that the School accepted homework without regard to whether the homework was Student writing or Complainant scribed.
8. The Complainant acknowledged that copies of the Student Report of the ISTEP and Terra Nova were received. The Complainant acknowledged that she had received one document entitled IEP goal report but did not recall that it had a place for a parent signature.
9. The School indicated that all student report cards are sent at a nine-week interval and that the Teacher of Record generates a student-specific IEP goal report on a report card format. The School indicated that IEP goal progress reports are inserted into the regular report card and sent home with students. The School acknowledges that although the report is sent in a bi-copy format with one sheet to be returned to the School signed by the parent, that the Complainant has never signed a report and returned it to the school. There were no attempts made to retrieve the signed copy. The School reports that all regular report cards were returned signed without the signed copy of the IEP goal progress report. The School reports that during the Parent/Teacher Conference, both the regular report card and the IEP goal were given directly to the Complainant at the conference. The School submitted copies of all IEP Goal Reports from the 2006-2007 school year and the reports to date for the 2007-2008 school year.
10. The Complainant sent an email to the Assistant Principal on December 7, 2007. The Request is as follows:
"Please allow this email to serve as official notice that I will be in to do an audit of the documentation collected for my son's intervention. I will be wanting to see the following documentation:
 - a) Examples of work given to non-identified 5th graders in Student's classroom and examples of the same work that has been adapted and given to Student per his IEP.
 - b) I would also like to see the log that is kept as documentation for what is worked on per Student's IEP goals.
 - c) I would like to be told in writing what research base intervention program is being used with Student to help him over come his learning disability. I would also like to know

which reading program is being used with Student in his regular class when he is with his classmates.”

11. The Complainant met with the Assistant Principal to review the Student’s Record on December 13, 2007. In anticipation of a request for copies of documents, the School made a complete copy of all the records in the file for the Complainant. The Assistant Principal indicated to the Complainant that one page of the Daily Log of Student work was not copied because the Logs are done by Class/Teacher and had multiple students listed for daily work and/or accommodations on that log page.
12. The Complainant states that the file was in the cabinet in the office and that a request was made to see who had reviewed the file but was denied that request.
13. The Assistant Principal acknowledged that due to the short time frame, the additional documentation, adapted work examples, IEP goal logs and a copy of the research-based intervention program being used for the Student, were not available to the Complainant on the date of the review.
14. According to copies of email submitted by the Complainant with duplicates submitted by the School, there were a minimum of 10 emails and two formal notices of attempts to schedule and complete the Annual Case Review. One notice was dated December 20, 2007, with the meeting scheduled for January 10, 2008. An IEP addendum, dated January 10, 2008 was signed by the Complainant. A second notice was dated January 24, 2008, with the meeting scheduled for February 6, 2008. The meeting not held; the Assistant Principal had to attend to a School emergency.

CONCLUSIONS:

1. Findings of Fact # 2 and # 4 indicate that accommodations as listed on the IEP are being implemented as described in the Student’s IEP Therefore, no violation of 511 IAC 7-27-7(a) with regard to reading tests and classroom materials by School staff is found.
2. Finding of Fact # 6 indicates that documentation concerning reading inclusion is not well documented. The Addendum as written is ambiguous. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact # 7 indicates that the School accepts the Student’s homework as scribed by the complainant. Therefore no violation of 511 IAC 7-27-7(a) is found with regard to the accommodation of the Complainant scribing the Student’s homework.
4. Findings of Fact # 4 and # 5 indicate that the School provides the accommodations as delineated in the IEP with regard to the Developmental Reading Assessment program. Therefore, no violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact # 9 indicates the School did not provide documentation of proof that the progress reports were sent to the Complainant. Therefore, a violation of 511 IAC 7-27-7(a) with regard to progress reports is found.
6. Findings of Fact #11, #12, and #13 indicate that the School copied the contents of the Student’s Record, with the exception of one page to give to the Complainant including a verbal explanation with regard to the missing page. The School did not document that the Complainant was allowed to see the Record of Access. Therefore, a violation of 511 IAC 7-23-1(d) is found.
7. Finding of Fact # 14 indicates that the School made attempts to schedule a time for the Case Conference Committee meeting. Therefore no violation of 511 IAC 7- 27-2(a) (CCC) meeting 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:

- 1) The School shall provide to the parent only the information relating to the Student in the missing page (Daily Log of Student work) from the Student's file and a copy of the Record of Access to the Complainant no later than May 15, 2008. If there is no Record of Access, the School must notify the Complainant of anyone who had access to the file other than the parent or authorized school officials pursuant to 511 IAC 7-23-1(i)((1)-(5). The School shall provide an assurance statement that it will comply with 511 IAC 7-23-1(i). The School shall notify the Division that the notification to the Complainant has been completed and send the assurance statement no later than May 15, 2008.
- 2) The School shall send copies of all IEP Goal Reports to the parent no later than May 15, 2008. The School shall notify the Division of the date on which the IEP Goal Reports are mailed.
- 3) The School shall reconvene the Case Conference committee to revise the IEP so as to have sufficient clarity so that both the Complainant and School personnel know what services the Student is to receive with regard to the meaning of LD Inclusion, no later than May 15, 2008. A copy of the IEP must be sent to the Division no later than May 30, 2008.