

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-344-2008
COMPLAINT INVESTIGATOR:	Bobbie Ritz
DATE OF COMPLAINT:	March 28, 2008
DATE OF REPORT:	April 25, 2008
REQUEST FOR RECONSIDERATION:	N/A
DATE OF CLOSURE:	June 6, 2008

COMPLAINT ISSUES:

Whether the M S D Pike Township violated:

511 IAC 7-17-8 by failing to include in the Student's behavioral intervention plan (BIP) positive behavioral intervention strategies.

511 IAC 7-17-38 by failing to include in the Student's functional behavioral assessment (FBA) the systematic collection and analysis of data that was used in developing the Student's BIP.

511 IAC 7-27-4(a)(3) by failing to convene a case conference committee (CCC) meeting upon a request from the parent, specifically with respect to the letter dated March 3, 2008.

511 IAC 7-27-7(a) by failing to implement the Student's individualized education program (IEP) as written, specifically by failing to notify the Student's parent upon the Student reaching a "number 3."

511 IAC 7-27-2(a) by failing to schedule a CCC meeting at a mutually agreed upon date, time, and place, specifically regarding the CCC meetings scheduled to convene in February, 2008.

FINDINGS OF FACT:

1. The Student, 10 years old, is eligible for special education and related services as a student with an other health impairment.
2. An FBA was completed on February 15, 2008, and discussed at the case conference committee (CCC) meeting which convened on February 26, 2008. The BIP that had been in place was updated during the CCC meeting based on data collected from the FBA. The IEP was revised but the Complainant did not sign the agreement to implement the IEP.
3. The BIP dated February 15, 2008, included the following positive behavioral intervention strategies:
 - "Tasks or assignments completed will be points earned for time with peers doing a preferred activity or may be 'banked' for tangible reward."
 - "[The Student] must earn specified number of points in morning to earn recess with peers and lunch in café."
 - "Points earned in the afternoon may be used for a preferred activity with a peer at the end of the day (time in gym, extra recess at end of day, computer or puzzle time)."
 - "[The Student] will earn time in general education setting with appropriate verbal interaction with peers and adults."
 - "Reporting to the resource room each morning and following morning procedures will result in being able to attend specials at 8:25a.m."
 - "4 out of 5 mornings with 80% or higher 'appropriate interaction' with peers and staff will result

in attending Math in general education classroom (morning class).”

- “Class periods of no verbal or physical aggression towards peers or adults will be rewarded with points that [the Student] may use to purchase tangible items or receive cougar cash.”¹
- “As [the Student] is successful in math, additional subjects/times in general education will be added using the same procedures as used for math.”
- “A daily sheet will go home recording behavior in the AM and PM and incentives earned. This will be a positive form of communication highlighting only [the Student’s] accomplishments.”
- “[The Student] will receive a cougar dollar for each day he attends school on time.”
- “After 5 days without a tardy, [the Student] may choose a friend to share a preferred activity.”

The BIP also addressed specific intervention steps to be taken during escalation.

4. The FBA collected data through various observations of the Student, interviews, and daily behavior logs and was completed on February 15, 2008. The evaluation team identified target behaviors that most impede the Student’s educational performance. Evaluation team members included: the Assistant Principal, Resource Teacher/Teacher of Record (TOR), Principal, School Psychologist, 5th grade Teacher, and Special Education Teacher. Data was collected from the Student’s classroom discipline record, official discipline record, teacher survey, behavioral observation, daily behavior log sheets, attendance record, family interview, student interview, and behavior function checklist. The Student’s BIP was revised during the CCC meeting on February 26, 2008, with an implementation date of February 27, 2008.
5. In a letter dated March 14, 2008, from the Director of Special Education to the Complainant, the Director of Special Education responded to the Complainant’s letter dated March 3, 2008, with the following: “The purpose of this correspondence is to respond to your letter you gave the Principal, dated March 3, 2008. In your letter you informed [the Principal] that you were going to home school [the Student]. You stated ‘if a case conference is needed in order for a student to be transferred to a school within his district; I am asking for a case conference immediately.’ It is not the function of the case conference committee to move a student from their home school to another school because a parent is unhappy with their child’s school. Therefore, a case conference is not necessary. You also stated in your letter, ‘I would also like the case conference committee to address my concerns about the student’s occupational therapy (OT) reports, grades, and progress.’ It does not require a case conference for you to contact the OT to discuss concerns about a report, or to contact [the Student’s] teachers to inquire about his grades and progress.”
The CCC had convened on February 26, 2008, with the Complainant requesting that the CCC reconvene on March 3, 2008.
6. The Letter of Complaint dated March 24, 2008, states the Complainant wrote a letter to the School on March 3, 2008, requesting the CCC to reconvene to review the Student’s IEP, BIP, and all other information discussed at the February 26, 2008, CCC meeting. The Complainant also requested that the Student be transferred to a different school within the district. As of March 24, 2008, the Complainant stated she had not received a response from the School. The Director of Special Education responded to the Complainant in the letter dated March 14, 2008. The School acknowledges the letter was sent to the wrong address and the Complainant did not receive it. Upon receipt of the letter being returned to the School, the School resent the letter on April 9, 2008.
7. The Complainant alleges in the Letter of Complaint that the Student’s IEP states that she was to be notified when the Student reaches the “number 3” as written in his yellow note book. The Complainant was then to have a meeting or come to the School to resolve these concerns with the resource teacher. The Complainant alleges the resource teacher did not notify her to resolve these issues before it escalated. The Complainant did not provide information with respect to specific dates or incidents when the Student’s behavior escalated to a “number 3” or when she was not contacted.

¹The Cougar Store is sponsored by the School and has numerous items that are donated or purchased by the School. Students can earn points daily which can be converted into cougar cash. The students can purchase items in the Cougar Store with their cougar cash.

8. The School provided documentation of notes dated February 8, 2008, and the Student's behavior sheet dated January 18, 2008, that indicated behavior issues with the Student. The Complainant was contacted by the School by telephone on those days as a result. However, the documentation is silent as to the telephone call being made as a result of the Student's behavior issues escalating to a "number three". The TOR has maintained detailed records to document that she attempted to call the Complainant on fifteen (15) occasions, sent notes home to the Complainant on six (6) occasions, and spoke to the Complainant at School on five (5) occasions from August 20, 2007 – December 20, 2007. The Student's IEP's dated November 14, 2007, and February 26, 2008, are silent with respect to the Complainant needing to be notified when the Student reaches the "number 3" as written in his yellow note book.
9. The Complainant alleges the School failed to schedule a CCC meeting at a mutually agreed upon date, time, and place, specifically regarding the CCC meetings scheduled to convene in February, 2008.
10. The Student's February 26, 2008 IEP includes a list of "arrangement attempts" to schedule the CCC meeting. School requested a conference on February 4, 2008, to review the Student's behavior plan. The Complainant informed the School that she could not meet on that date. On January 22, 2008, the TOR called the Complainant and left a voice mail requesting possible dates for the conference. On January 25, 2008, the Principal spoke to the Complainant at the School and again requested possible dates for the conference. On January 30, 2008, the School mailed the CCC meeting notification. The Complainant's advocate called the School on an unknown date and scheduled the conference for February 20, 2008. On February 1, 2008, the meeting scheduled for February 20, 2008 was confirmed in an email by the Complainant. On February 19, 2008, the Complainant contacted the School and advised she would not be able to attend the conference scheduled for the next day due to a family emergency. The conference was rescheduled for February 26, 2008, due to the fact that the 60 instructional days timeline was due for the completion of the evaluation. On February 26, 2008, the CCC meeting was held with the Complainant in attendance.
11. The Student was withdrawn from the School on March 3, 2008. In the letter dated March 14, 2008, from the Director of Special Education to the Complainant, the Director of Special Education indicated, "Home schooled students may receive related services consistent with their IEP. Should you choose to access the related services which include occupational therapy and counseling, please contact me directly."

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate the School has included numerous positive behavioral intervention strategies in the Student's BIP. Therefore, a violation of 511 IAC 7-17-8 is not found.
2. Finding of Fact #4 indicates the Student's FBA was revised after the School collected and analyzed various data by the evaluation team. Therefore, a violation of 511 IAC 7-17-38 is not found.
3. Findings of Fact #2 and #5 indicate the CCC convened on February 26, 2008, with the Complainant in attendance. Finding of Fact #6 indicates the Complainant requested in a letter written to the School on March 3, 2008, that the CCC reconvene to discuss transferring the Student to a different school within the district and to discuss her disagreement with the IEP revised on February 26, 2008. Finding of Fact #11 indicates the Complainant withdrew the Student from School on March 3, 2008. Because the Complainant disagreed with the IEP developed on February 26, 2008 and formally requested a CCC meeting in a letter dated March 3, 2008, a CCC meeting should have reconvened. Furthermore, because the Student, as of March 3, 2008, is considered a private school student, a CCC meeting should reconvene to discuss services for the Student pursuant to 511 IAC 7-19-1. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.
4. Findings of Fact #7 and #8 indicate the Student's IEP is silent with respect to the Complainant needing to be contacted when the Student's behavior issues escalate to a number 3. Therefore, a violation of 511

IAC 7-27-7(a) is not found.

5. Findings of Fact #9 and #10 address the scheduling of CCC meetings in February, 2008. Finding of Fact #10 indicates that the School made attempts to convene a CCC meeting at a mutually agreed upon date, time, and place, and has maintained detailed records. Therefore, a violation of 511 IAC 7-27-2(a) is not found.

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

The School shall convene a CCC meeting **no later than May 16, 2008** to discuss services for Student pursuant to 511 IAC 7-19-1. A copy of the developed IEP must be submitted to the Center **no later than May 23, 2008**. If the School is unable to convene a CCC meeting with the Complainant, the School must submit its record of attempts to arrange the CCC meeting (pursuant to 511 IAC 7-27-2) **no later than May 23, 2008**.