

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1515.00  
**COMPLAINT INVESTIGATOR:** Roger Hubbard  
**DATE OF COMPLAINT:** January 21, 2000  
**DATE OF REPORT:** February 23, 2000  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** April 10, 2000

**COMPLAINT ISSUES:**

Whether the Eastern School District of Greene County and the Orange, Lawrence, Jackson, Martin, Greene Joint Services violated:

- 511 IAC 7-3-23 and 7-4-1 (b) with regard to the school's alleged failure to provide a free appropriate public education to an eligible student, specifically:
  - a. failing to advise the parent of the student's right to continue to receive special education and related services concurrent with the student being home-schooled or the right to re-initiate special education and related services should the student choose to return to the public school;
  - b. failing to make services available to a student attending a home school; and
  - c. failing to provide special education and related services to a student who has chosen to return to the public school.
- 511 IAC 7-4-4 with regard to the school's alleged failure to make available special education and related services (from 9/96 to the present) to a student in a private school (home school) whom the school knew to be eligible for services.
- 511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's individualized education program (IEP), as written and consented to in August and September, 1999.
- 511 IAC 7-12-1 (k) with regard to the school's alleged failure to include service initiation and duration dates on the IEP developed in August and September, 1999.

The complaint investigation report was originally due on February 18, 2000. However, a brief extension was granted to February 23, 2000 in order for the investigator to obtain additional information.

**FINDINGS OF FACT:**

1. The student (the Student) is nine years old and is eligible for special education and related services as a Student with autism and a communication disorder.
2. In May, 1996, the case conference committee (CCC) developed an IEP for the 1996-1997 school

year. The least restrictive environment was determined to be special education instruction for the entire day in the general education setting. In August and September of 1996, the CCC convened to discuss problems the Student was experiencing in the self-contained placement. The CCC was scheduled to reconvene on two subsequent dates in September and October, 1996, but the parent canceled both meetings.

3. On October 28, 1996 the parent telephoned the school to withdraw the Student. The decision to withdraw the Student was due to the parents' dissatisfaction with the services the Student had been receiving at school.
4. The school did not advise the parent, either at the time of the Student's withdrawal or subsequent to the withdrawal, that the school could continue to provide special education and related services while the Student was being home schooled. The contact logs maintained by the school indicate no contact between the school and the parent between October 28, 1996 and May 25, 1999.
5. The Student was home schooled from September, 1996 through August, 1999. The school did not offer nor make any special education services available to the Student during this time.
6. On May 25, 1999, the parent contacted the school and indicated that the Student was to be reenrolled in school for the 1999-2000 school year. The Student reenrolled in school, and the CCC convened on August 11, 1999. The CCC determined the Student needed to be reevaluated, that homebound services would not meet the Student's needs, and that placement should be in a public school setting. On August 23, 1999, the CCC reconvened, discussed the evaluation results, and developed an IEP. Initiation dates were listed as "to be determined." No services were initiated in August, 1999, and the Student remained at home.
7. On September 13, 1999, the CCC reconvened to discuss placement options. The CCC agreed that special education and related services would include: an alternative services application for a teacher to provide one-to-one services; full-time placement in a classroom for Students with moderate mental handicaps; occupational therapy (OT) ; a daily sensory intergration program; physical therapy consultation; and speech therapy for 20 to 30 minutes per week. The parent signed consent for the IEP to be implemented. The CCC also agreed that the parent would visit a program at one of the local elementary schools. The initiation date for services was listed as "pending parent visitation." No services were initiated in September, 1999, and the Student remained at home.
8. On October 13, 1999, the CCC convened to discuss a behavior plan and the parent's request for a possible transfer to another school. The CCC Summary/IEP from October 13<sup>th</sup> indicates the least restrictive environment to be homebound services with a notation of "OT." The goals and objectives developed at the previous CCC remained unchanged, but when listing the services to be provided, the only service listed was direct OT services to be provided one time per week for 45-60 minutes. The initiation date for this service was October 13, 1999. The parent signed consent for the service to be implemented.
9. The CCC reconvened on October 28, 1999 to discuss the need for alternative services in the form of a one-to-one teacher. The CCC Summary/IEP states that the alternative services application would be completed. The options for the school the Student would attend were again discussed, and the parents chose to visit another school prior to deciding. The IEP goals and objectives remained as written at the beginning of the school year. OT services continued to be provided. On October 29, 1999, the parents made a decision on the school the Student would attend.

10. The school applied for alternative services funds for a one-to-one teacher in October, 1999, and the application was approved in November, 1999. The school hired a teacher who was to begin work on December 10, 1999. However, the individual ultimately declined the position. A second individual also accepted and subsequently declined the position. During this period, the school offered to provide two aides for the classroom teacher to allow the Student to participate in the classroom, but the parents declined this arrangement. A teacher was finally hired, and one-to-one instructional services in the school began on January 28, 2000.
11. The CCC convened on February 15, 2000, and determined that the Student would receive extended school year services to compensate for the previous lack of services.

### **CONCLUSIONS:**

1. Findings of Fact #2, #3 and #4 indicate that the Student received special education services while enrolled in public school, but when the parent withdrew the Student from school, the school failed to advise the parent that special education services were available to the Student concurrent with being home schooled. Finding of Fact #5 reflects that the school did not offer or provide any special education services during the three school years in which the Student was home schooled. Findings of Fact #6, #7, #8, #9, and #10 reflect that, although the Student was reenrolled in school for the 1999-2000 school year and an IEP was developed in August, no services were provided until October 13, 1999. The IEP was not fully implemented until January 28, 2000. Therefore, violations of 511 IAC 7-3-23 and 7-4-1(b) are found.
2. Findings of Fact #2, #3, #4, and #5 indicate that the Student received special education services while enrolled in public school, but when the parent withdrew the Student from school, the school failed to advise the parent that special education services were available to the Student concurrent with being home schooled. The school did not offer or provide any special education services during the three school years in which the Student was home schooled. Therefore, a violation of 511 IAC 7-4-4 occurred. However, Finding of Fact #11 indicates that the CCC has considered the previous lack of services to the Student and extended school year services will be provided to compensate for that loss. No additional corrective action will be required on the issue of compensatory services.
3. Findings of Fact #6 and #7 reflect that the CCC developed an IEP on August 23, 1999 and determined placement should be in the public school rather than homebound. The IEP listed no date for initiation of services. The CCC reconvened on September 13, 1999, identified additional services, and continued the goals and objectives developed previously. The parent consented to implementation of the IEP. The date for initiation of services was not identified. The Student was not provided with any services during this time. Finding of Fact #8 indicates that CCC reconvened on October 13, 1999, and the recommended placement for the Student was determined to be homebound services. The goals and objectives (including communication, social, and academic skills) remained unchanged, but the CCC Summary/IEP indicated that only OT would be provided at this time. OT services were initiated on October 13, 1999. Findings of Fact #9 and #10 indicate that in late October, the parents agreed that the Student should attend the local elementary school, but that the Student did not begin attending and the IEP was not fully implemented until January 28, 2000, as the result of the school's inability to obtain a one-to-one teacher for the Student. Therefore, a violation of 511 IAC 7-12-1 occurred. However, Finding of Fact #11 indicates that the CCC has considered the lack of services to the Student and extended school year services will be

provided to compensate for that loss. No additional corrective action will be required on the issue of compensatory services.

4. Findings of Fact #6 and #7 indicate that dates for initiation of services were listed as "to be determined" and "pending parent visitation" on the IEPs developed and amended on August 23 and September 13, 1999, respectively. Therefore, a violation of 511 IAC 7-12-1(k) is found.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Eastern School District of Greene County and the Orange, Lawrence Jackson, Martin, Greene Joint Services shall:

1. Review and revise, if necessary, the procedures to be followed to inform parents of the continuing availability of special education and related services from the public school, even though the parent has decided to home school the student. A copy of the procedure and any written materials to be provided to the parent shall be submitted to the Division by March 15, 2000.
2. Provide in-service training to appropriate staff on the requirement of including service initiation and duration dates in an IEP. This training must occur by March 31, 2000, and copies of attendance rosters and participant handouts shall be provided to the Division no later than April 10, 2000.