

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1530.00
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: February 18, 2000
DATE OF REPORT: March 15, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 20, 2000

COMPLAINT ISSUES:

Whether the Indianapolis Public Schools violated:

511 IAC 7-12-1 with regard to the school's alleged failure to implement the students' individualized education programs (IEPs) as written due to the number of special education students assigned to the special education teacher and the number of IEPs for which the special education teacher is responsible for implementing.

During the course of the investigation, additional issues were identified, which are:

511 IAC 7-12-1(e) with regard to the school's alleged failure to include in the case conference committee (CCC) meeting a representative of the public agency who is qualified to provide or supervise the provision of special education and who has the authority to commit public agency resources.

511 IAC 7-12-1(l) with regard to the school's alleged failure to keep in the record of each student receiving special education or related services an IEP that is no more than twelve months old.

34 CFR 300.344(a)(2) with regard to the school's alleged failure to ensure that the CCC meeting for each child with a disability includes at least one regular education teacher of the child.

511 IAC 7-10-3(o) with regard to the school's alleged failure to conduct at least every thirty-six months or more frequently a comprehensive, multi-disciplinary team re-evaluation.

511 IAC 7-11-1(e) with regard to the school's alleged failure to provide teachers and related services personnel serving students with autism with specialized in-service training in this area.

511 IAC 7-12-1(5) with regard to the school's alleged failure to convene a CCC meeting when a student who has been receiving special education elsewhere moves into the geographic jurisdiction of the public agency.

FINDINGS OF FACT:

1. The complaint involves twenty-two students who receive at least part of their instructional day in a self-contained classroom for seventh and eighth grade students. The students in this classroom have been determined eligible for special education and related services due to having at least one of the following disabilities: a learning disability, autism, or a mild mental handicap. Most of the

students receive health, art, physical education, and music with general education students. Two students receive instruction on a reduced day schedule as specified in their IEPs.

2. On an average during the 1999-2000 school year, the classroom teacher has been the teacher of service for approximately twenty-two students. On October 22, 1999, a school roster indicates the classroom teacher as being the teacher of record for twenty-three students. No instructional assistant has been assigned to the classroom during the 1999-2000 school year. Until March 7, 2000, the classroom teacher was responsible for implementing twenty-two IEPs. Of those twenty-two students, fifteen required special education for the entire instructional day, fifteen had behavior plans, and twelve required individual or small group instruction. An interview with the classroom teacher and union representative was conducted by two education consultants from the Division on March 10, 2000. At this meeting the classroom teacher stated she has been unable to implement any of the students' IEPs in her classroom during the 1999-2000 school year. The classroom teacher stated she was unable to implement the IEPs due to the following reasons: large number of students in the classroom, lack of instructional assistants, large number of students with behavior problems, a large volume of paperwork, and poor student attendance.
3. On March 7, 2000, a substitute teacher was employed, and seven students were transferred from the self-contained classroom to the classroom of the substitute teacher. The classroom teacher is now responsible for implementing the IEPs of approximately fifteen students. The classroom teacher states she still cannot implement these IEPs due to the following reasons: large number of students in the classroom, lack of instructional assistants, large number of students with behavior problems, a large volume of paperwork, poor student attendance, and needing to provide instruction and guidance to the substitute teacher. Based on a written statement from the union representative, the classroom teacher or union representative has notified administrative staff on at least ten different occasions that the classroom teacher could not implement the students' IEPs based on the large caseload assigned to the classroom teacher. A requisition to hire an additional special education teacher was submitted by the local director of special education on January 21, 2000. The school principal has interviewed seven candidates, but no one has been hired as of this date. The school's goal is to employ an additional special education teacher, and then transition some of the students from the current self-contained classroom to the new teacher's classroom.
4. Based on the review of the twenty-two IEPs, a representative of the public agency who has the authority to commit public agency resources was not in attendance at the most recent CCC meeting for eight of those students.
5. Based on the review of the twenty-two IEPs, two students had IEPs that were more than twelve months old.
6. Based on the review of the twenty-two IEPs, a general education teacher was not in attendance at the most recent CCC meeting for one student.
7. Based on the review of the twenty-two IEPs, a comprehensive, multi-disciplinary team re-evaluation had not been completed in more than thirty-six months for one student.
8. One student in the self-contained classroom has the primary diagnosis of autism. During the interview with the classroom teacher on March 10, 2000, the classroom teacher stated she had not received any specialized in-service training in the area of autism. The supervisor of special education states the student is assigned to three other teachers who have not received specialized in-service training in the area of autism.
9. Based on the review of the twenty-two IEPs, one student had enrolled in the school in October, 1999 from another school outside the jurisdiction of the public agency, however, no CCC meeting

has yet been convened.

CONCLUSIONS:

1. Findings of Fact #1, #2, and #3 reflect that the classroom teacher was unable to implement the IEPs of all students in her class since the beginning of the 1999-2000 school year. Therefore, a violation of 511 IAC 7-12-1 is found.
2. Finding of Fact #4 indicates that a representative of the public agency with the authority to commit public agency resources did not attend the CCC meetings of eight students. Therefore, a violation of 511 IAC 7-12-1(e) is found.
3. Finding of Fact #5 reflects that two students have IEPs that are more than twelve months old. Therefore, a violation of 511 IAC 7-12-1(l) is found.
4. Finding of Fact #6 indicates that a general education teacher did not attend the last CCC meeting for one student. Therefore, a violation of 34 CFR 300.344(a)(2) is found.
5. Finding of Fact #7 reflects that one student has not had a comprehensive, multi-disciplinary team re-evaluation in more than thirty-six months. Therefore, a violation of 511 IAC 7-10-3(o) is found.
6. Finding of Fact #8 indicates that teachers serving the student with autism have not had specialized in-service training in that area. Therefore, a violation of 511 IAC 7-11-1(e) is found.
7. Finding of Fact #9 reflects that the school failed to convene a CCC meeting when a student who has been receiving special education elsewhere moved into the geographic jurisdiction of the public agency. Therefore, a violation of 511 IAC 7-12-1(5) 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 Indianapolis Public Schools shall:

1. Convene a CCC meeting with the appropriate committee members for each of the twenty-two students to determine the need for any compensatory services or revisions in the current IEPs. Submit all revised IEPs, CCC Summary Reports, and any educational evaluations to the Division no later than April 28, 2000.
2. Submit a plan to the Division no later than April 28, 2000, which explains what measures will be taken to ensure that the IEPs of the twenty-two students will be implemented by the school. The plan shall include dates that the measures will be implemented.
3. In-service all appropriate staff (administrators, supervisors, educators, etc.) on complying with the following special education rules:
 - 511 IAC 7-12-1 in regards to the implementation of IEPs;
 - 511 IAC 7-12-1(e);
 - 511 IAC 7-12-1(l);
 - 34 CFR 300.344(a)(2);
 - 511 IAC 7-10-3(o);

511 IAC 7-11-1(e); and
511 IAC 7-12-1(5).

Submit documentation to the Division that this has been completed no later than April 28, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.

4. Provide specialized in-service training to all teachers and related services personnel that are responsible for instructing the student with the primary diagnosis of autism. Submit documentation to the Division that this has been completed no later than April 28, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
5. Institute efforts to employ appropriately licensed or certified teaching staff to provide educational services to the twenty-two students identified in the self-contained classroom. Attempts to employ said personnel shall be through, but not limited to newspaper advertisements and notifications to universities. Documentation shall be submitted to the Division on a monthly basis in the form of newspaper ads, notifications, and all other written efforts. The first submission of documentation concerning this issue shall be submitted to the Division no later than April 28, 2000.

DATE REPORT COMPLETED: March 15, 2000