

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1553.00  
**COMPLAINT INVESTIGATOR:** Jane Taylor Holmes  
**DATE OF COMPLAINT:** March 30, 2000  
**DATE OF REPORT:** May 12, 2000  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** January 25, 2001

**COMPLAINT ISSUES:**

Whether the MSD of Martinsville violated:

511 IAC 7-12-1(g)(5) with regard to the school's alleged failure to convene a case conference committee meeting when the student who had been receiving special education and related services in another state moved to the local school corporation during the 1992-93 school year;

511 IAC 7-12-1(g)(2) with regard to the school's alleged failure to convene a case conference committee meeting annually once the student was determined eligible for special education and related services;

511 IAC 7-12-1(k) with regard to the school's alleged failure to include the following components in the student's individualized education program:

- a. the student's present levels of educational performance in academic and non-academic areas that specify the effect of the disability on the student's performance;
- b. annual goals that describe what the student can be expected to accomplish within a twelve month period;
- c. short-term instructional objectives designed to meet each annual goal; and
- d. objective criteria and evaluation procedures and a schedule for determining, at least on an annual basis, whether the short-term instructional objectives are being achieved.

511 IAC 7-12-2 with regard to the school's alleged failure to ensure a continuum of placement alternatives was made available to and considered by the case conference committee when determining the least restrictive environment for the student; and

34 CFR 300.344 with regard to the school's alleged failure to include required participants in a case conference committee convened on February 19, 2000.

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

Whether the MSD of Martinsville violated:

511 IAC 7-12-1(e)(1) with regard to the school's failure to include 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 keeping in the record of a student receiving special education and related services an *IEP* that was more than 12 months old;

511 IAC 7-12-1(k) with regard to the school's failure to consider the individual needs of students when developing their *IEPs*;

511 IAC 7-3-50 with regard to the school's failure to include the students' teachers of record in the case conference committee meetings.

This report was originally due on April 28, 2000. An extension of time was granted due to the identification of systemic issues that required additional investigation. The new deadline is May 12, 2000.

#### **FINDINGS OF FACT:**

1. The Student is 17 years old and is eligible for special education and related services as a student with a learning disability ("LD") at the local high school (the "High School").
2. The Student enrolled in the third grade at the local elementary school (the "Elementary School") at the beginning of the 1992-93 school year after moving from another state (the "Other State"). The Student received special education and related services as a student with a LD while residing in the Other State. The Student's mother signed an *Interim Parent Permission to Place Form* (the "Form") on September 4, 1992, for the Student to "be placed in a/an special ed program until such time that appropriate records can be obtained and a case conference held."
3. The case conference committee (the "CCC") met on November 23, 1992. The CCC report indicates that the Student's most recent educational evaluation, dated July 12, 1990, from the Other State was discussed. Assessments to measure the Student's expressive and receptive language skills, word recognition, reading comprehension, and spelling were administered at the Elementary School prior to the CCC, and discussed. The Student's classroom achievement and current grades were also discussed. The CCC developed a new *IEP* that included a long-term goal, short-term objectives, objective criteria and evaluation procedures, and an annual schedule for determining achievement. The continuum of placement alternatives (the "Continuum") was discussed with the least restrictive environment (the "LRE") for the Student being determined as the general education classroom with direct services and/or instruction, along with one-two hours daily in the resource room for all subjects. The provision of speech and language services was also included in the *IEP*. The initiation and duration of services dates were listed as November 23, 1992, to November 23, 1993. All required members participated in this CCC meeting.
4. The Student's triennial evaluation was conducted on September 30, 1993.
5. An annual case review (the "ACR") was held on November 22, 1993. The results of the September 30, 1993 triennial evaluation were discussed, along with the Student's current grades. A new *IEP* was developed that included a long-term goal, short-term objectives, objective criteria and evaluation procedures, and an annual schedule for determining achievement. The Student's placement continued to be in a general education classroom with 60 minutes of daily resource for all subjects as needed. The initiation and duration of services dates listed on the *IEP* were November 23, 1993, to June 1, 1994. The *IEP* also states, "Continue *IEP* in 94-95 until ACR." All required members participated in this CCC meeting.
6. The CCC met on May 18, 1995, for the Student's ACR. The Student's current progress and grades were discussed. A new *IEP* was developed that included a long-term goal, short-term objectives, objective criteria and evaluation procedures, and an annual schedule for determining achievement. The Continuum was discussed, and the LRE for Student continued to be services in the LD program within the general education classroom, language arts one period daily taught by the resource teacher, and direct service in the general education math class. The initiation and duration

of services dates listed on the *IEP* were May 18, 1995, to May 18, 1996. All required members participated in this CCC meeting.

7. The CCC met on January 22, 1996, for the Student's ACR. The CCC report indicates that the Student's present levels of performance and the September 30, 1993 evaluation information were discussed. The new *IEP* included a long-term goal, short-term instructional objectives, objective criteria, and a schedule for determining achievement. The Continuum was discussed, and the LRE for the Student continued to be LD math services in the general education classroom one period daily. The initiation and duration of services dates listed on the revised *IEP* are January 22, 1996, to January 22, 1997.
8. The Student's triennial evaluation was conducted on October 14, 1996.
9. The CCC met on April 24, 1997, for the Student's ACR. The CCC report indicates that the October 14, 1996 re-evaluation information and the present levels of performance were discussed. A long-term goal and short-term instructional objectives, objective criteria, and a schedule for determining achievement were included in the *IEP*. The Continuum was discussed, and it was determined that the Student should receive direct LD services in the resource room daily for two periods for English, math, and reading. The initiation and duration of services dates portion of the revised *IEP* states beginning April 25, 1997, and continuing until next ACR approximately April 25, 1998.
10. The Student's CCC met on March 3, 1998, for an ACR. The CCC report indicates that the Student's present levels of performance were discussed. A transition plan was written for the Student's freshman year that included a goal, outcome measures, implementation dates, and implementers. The Continuum was discussed, and it was determined that the Student should receive direct LD services in the resource room daily for one to two periods for basic English and basic life science. The initiation and duration of services dates listed are March 4, 1998, and continuing until next ACR approximately March 4, 1999.
11. The CCC met on February 22, 1999, for the Student's ACR. The CCC report indicates that the Student's present levels of progress were discussed. A long-term goal and short-term instructional objectives, objective criteria, and a schedule for determining achievement were included in the *IEP*. The Continuum was discussed, and it was determined that the Student should receive LD consultation services, with one daily period of direct service. The initiation and duration of services dates listed on the revised *IEP* are February 22, 1999, to February 22, 2000.
12. The CCC met on January 18, 2000, for the Student's ACR. The CCC report indicates that the Student's present levels of progress were discussed. Long-term goals and short-term instructional objectives, objective criteria, and a schedule for determining achievement were included in the *IEP*. The Continuum was discussed, and it was determined that the Student should receive LD consultation for all classes and direct LD service for math instead of general education math during the third trimester. The frequency or length of LD service the Student is to receive is not indicated on the *IEP*. One of the annual long term goals states, "To utilize the resource room on a needs basis." One of the short-term instructional objectives states, "Complete goals/objectives at appropriate instructional level with indirect support from special education consultant." The schedule to review progress is indicated as six weeks and at the semester. The initiation and duration of services dates are listed as February 18, 2000, to June 4, 2000. According to the *IEP* the following individuals attended: the psychologist acted as the chairperson, the guidance counselor as the administrator, a general education teacher, the teacher-of-record, the parents, and the advocate. There was no agency representative in attendance. The *IEP* indicates that the CCC looked at four placement alternatives on the continuum with respect to determining the Student's placement in the least restrictive environment.

13. The Director reported that a general education teacher attended part of the CCC meeting. The meeting was not concluded that day because the Student was needed for the development of her *individualized transition plan* (the "*ITP*"), but was unavailable due to her status as a run-away. The Director further reported that the School is willing to reconvene the CCC meeting when the Student returns to the High School.
14. On April 14, 2000, complaint investigators from the Division reviewed 75 files of students who are eligible for special education and related services as students with a LD at the High School. Of those 75 students, 56 are to receive consultation services, and 19 are to receive resource services. Whether a student is to receive consultation or resource services, the majority of the *IEPs* include the same annual long term goal of, "To utilize resource room on an as-needed basis," and a short term instructional objective of, "Complete goals/objectives at appropriate instructional level with indirect support from special education consultant."The majority of the students' *IEPs* do not indicate frequency or length of the LD services. CCC meetings for 29 of the 75 students did not include the students' teachers of record, and CCC meetings for 51 of the 75 students did not include a general education teacher.
15. The Director reported that the School is on a trimester schedule with five classes daily that are approximately 70 minutes. The students receiving LD services are allowed to utilize the resource room when they want as the resource room is available all day. There are two LD teachers at the School and they, along with paraprofessionals, are available to the students in the resource room.
16. As of December 1, 1999, the teacher of record roster, which is part of the child count process and submitted by the local special education office, indicates that one of the High School's LD teachers has 29 students with LD on her caseload. The other LD teacher at the High School has 57 students with LD on his caseload.

#### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that although the CCC met and developed a new *IEP* for the Student, the CCC did not meet within a reasonable time of the Student's enrollment at the School. A violation of 511 IAC 7-12-1(g)(5) occurred.
2. Findings of Fact #5 and #6 indicate that the Student's ACR for the 1994-95 school year was not conducted in a timely manner, and consequently, the *IEP* in effect for the Student at that time was more than 12 months old. A violation of 511 IAC 7-12-1(g)(2) and 511 IAC 7-12-1(l) occurred.
3. Findings of Fact #3, #5, #6, #7, #9, #10, #11, and #12 indicate that the Student's *IEPs* written at all of the CCC meetings included the required components of:
  - a. the Student's present levels of educational performance;
  - b. annual goals;
  - c. short-term instructional objectives; and
  - d. objective criteria and evaluation procedures for determining annual achievement.No violation of 511 IAC 7-12-1(k) occurred.
4. Findings of Fact #3, #5, #6, #7, #9, #10, #11, and #12 indicate that a continuum of placement alternatives was discussed when determining the least restrictive environment for the Student at each of the CCC meetings. No violation of 511 IAC 7-12-2 occurred.
5. Although Finding of Fact #13 indicates that the general education teacher attended only a portion of the Student's CCC meeting, Finding of Fact #12 indicates that there was not a public agency representative in attendance. A violation of 34 CFR 300.344 and 511 IAC 7-12-1(e)(1) has occurred.

6. Findings of Fact #14 and #15 indicate that the majority of the students' *IEPs* do not include the frequency and duration of special education services to be provided. Further, Finding of Fact #14 also indicates that the majority of the students' *IEPs* contain identical long-term annual goals and short-term instructional objectives. A violation of 511 IAC 7-12-1(k) has occurred.
7. Finding of Fact #14 indicates that CCC meetings held for most of the students with LD did not include the proper membership, with respect to including the students' teachers of record. A violation of 34 CFR 300.344 and 511 IAC 7-3-50 has occurred.

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

**CORRECTIVE ACTION:**

The MSD of Martinsville shall:

1. conduct an inservice training for all professional personnel from all the school buildings within the corporation on the following issues:
  - a. the requirement that a CCC meeting be convened for a student enrolling from another state (proposed rules allow 10 school days to convene);
  - b. the requirement to convene a CCC meeting at least annually;
  - c. the requirement that no *IEP* be more than 12 months old;
  - d. the requirement to include all requisite participants in a CCC meeting; and
  - e. the requirement to include frequency and duration of special education services to be provided.

A copy of the inservice training agenda, training materials, and a list of attendees by signature and title shall be submitted to the Division no later than June 15, 2000.

2. Reconvene a CCC meeting with the requisite membership for each of the School's students with a LD to:
  - a. review/develop individual goals and objectives; and
  - b. include the frequency and duration of special education services to be provided.

A copy of the pages from the *CCC Report/IEP* for each student containing this information shall be submitted to the Division no later than September 1, 2000.

DATE REPORT COMPLETED: May 11, 2000