

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1579.00
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: May 24, 2000
DATE OF REPORT: June 29, 2000
REQUEST FOR RECONSIDERATION: yes (revisions resulting from reconsideration are underscored)
DATE OF CLOSURE: September 14, 2000

COMPLAINT ISSUES:

Whether the Valparaiso Community Schools and the Porter County Education Interlocal violated:

511 IAC 7-12-1(e)(4) with regard to the school's alleged failure to allow the parent to determine if it was appropriate for the student, under the age of 18, to attend the case conference committee meeting, because of the alleged school policy requiring the student's attendance;

34 CFR 300.344(a)(2) with regard to the school's alleged failure to include a general education teacher as a member of the case conference committee;

34 CFR 300.504(a)(2) with regard to the school's alleged failure to provide the parent with a copy of the procedural safeguards upon notifying the parent of a case conference committee meeting;

511 IAC 7-7-1(d) with regard to the school's alleged failure to ensure that the parent understood the procedural safeguards;

511 IAC 7-13-4(a) with regard to the school's alleged failure to develop an individualized transition plan as part of the student's individualized education program at the annual case review conducted prior to the school year in which nondisabled students of the same chronological age begin to earn credits toward high school graduation;

34 CFR 300.347(b)(1) with regard to the school's alleged failure to include in the student's *IEP* (beginning at age 14), a statement of the transition service needs of the student under the applicable component of the student's *IEP* that focuses on the student's courses of study; and

511 IAC 7-15-6 with regard to the school's alleged failure to comply with the final orders of the Board of Special Education Appeals in hearing #1037.98, issued on June 25, 1999.

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

Whether the Valparaiso Community Schools and the Porter County Education Interlocal violated:

34 CFR 300.345(1)(i) and 511 IAC 7-12-1(d)(2) with regard to the school's failure to include in the notice of the case conference committee meeting the purpose of the meeting.

FINDINGS OF FACT:

1. The student (the "Student") is fifteen years old and is eligible for special education and related services as a student with an emotional handicap ("EH"). The Student completed the eighth grade at a local segregated self-contained facility during the 1999-2000 school year.
2. The Student attended the May 10, 2000 case conference committee (the "CCC") meeting. The complainant contends that she did not want the Student to attend.
3. The Supervisor reported that the Student has been a participating member of the CCC since November 1999. The *CCC Report/IEP* dated November 19, 1999 indicates that the Student attended that meeting. The Supervisor also reported that the Complainant did not notify the Interlocal that she did not want the Student to attend, but she did complain that the Student had been invited. The notification was addressed to both the Complainant and the Student. The notification did not indicate the purpose of the meeting, nor did it indicate that a copy of parental rights was enclosed.
4. On May 10, 2000, the Student went home on the bus at the end of the instructional day to say good-bye to his grandfather, who had been visiting. According to the Supervisor the Complainant knew of the Student's plans because she reported that the grandfather would bring the Student back to the Interlocal for the meeting. The Complainant also called the Student at home and requested that he bring her water bottle with him when he returned. The CCC meeting began at 2:45 p.m. and the Student joined the meeting approximately 45 minutes later.
5. The notification for the May 10, 2000 CCC meeting lists a general education teacher by name as an expected participant. This teacher was unable to attend due to a family death. The local high school guidance counselor attended the meeting in the teacher's place. The IEP developed for the Student at this CCC states that the Student will attend an identified general education class at the local high school during the 2000-2001 school year and will also choose another general education elective in which to participate during the school year. The IEP also states the least restrictive environment for the Student as "special education instruction for most of the instructional day, with instruction in the general education classroom for part of the day."
6. The Supervisor reported in her letter of response that all parents receive a copy of their parent rights in the notification sent to them. However, the parent reports that the notice of procedural safeguards was not included with the notice of the CCC meeting. The Case Conference Notification does not indicate that a notice of procedural safeguards was included with the Notification, and there is no documentation to confirm that the notice of procedural safeguards was sent or received. According to the Supervisor, at the conclusion of the May 10, 2000 CCC meeting, the Complainant received a copy of parent rights to read while the Supervisor made copies of the *CCC Report/IEP*. Upon the Supervisor's return from the copy machine, she asked the Complainant if she had any questions regarding the parent rights, and the Complainant reportedly had no questions. However, on the last page of the May 10 IEP, there is no parent signature indicating receipt of the notice of procedural safeguards.
7. The Supervisor also reported in her letter of response that at the conclusion of the CCC meeting the Complainant was asked to pay book rental fees due from August 1999. The Supervisor reported that the parent rights were given to the Complainant when she paid the fees.
8. The Complainant contends that the Student's teacher of record gave her a copy of the parent rights as all were leaving at the end of the CCC meeting, and that she was not given an opportunity to ask any questions.

9. Page seven of the Student's *IEP* dated June 1, 1999, includes the initial *individualized transition plan* (the "*ITP*"). The Student's 14th birthday was January 14, 1999, and the Student was in the eighth grade at the time of the June 1, 1999 CCC meeting.
10. The Student's *ITP* written at the June 1, 1999 CCC meeting includes a statement of transition services. Discussion regarding the Student's post-secondary employment and living outcomes, recommended transition services, and responsible persons and agencies was included in the *ITP*.
11. The Supervisor provided the Division a copy of the Interlocal's procedures for obtaining signatures on proposed *IEPs*, as required by the final orders of the Board of Special Education Appeals from due process hearing #1037.98.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate that the Student had attended a CCC meeting without objection from the Complainant prior to attending the May 10, 2000 CCC meeting. The Findings also indicate that the notification of the May 10, 2000 CCC meeting was addressed to both the Complainant and the Student, and the Complainant voiced no objection prior to the meeting to have the Student attend. 511 IAC 7-12-1(e)(4) requires that a student be invited to attend the CCC meeting if transition services are to be considered. No violation of 511 IAC 7-12-1(e)(4) occurred.
2. Finding of Fact #5 indicates that a general education teacher did not attend the May 10, 2000 CCC meeting. Because the Student's IEP, developed at this CCC meeting, identified the Student's participation in general education classes for the upcoming school year, a general education teacher was required to participate as a member of the May 10 CCC meeting. A violation of 34 CFR 300.344(a)(2) occurred.
3. 34 CFR 300.504(a)(2) requires the School to provide a copy of the notice of procedural safeguards upon notification of a CCC meeting. Finding of Fact #3 reflects conflicting information on whether the procedural safeguards notice was provided, and there is no documentation on the issue. Therefore, the Division is unable to determine whether the School has complied with 34 CFR 300.504(a)(2). Because the School cannot demonstrate compliance, a violation is found.
4. Findings of Fact #6, #7, and #8 indicate conflicting information as to when the Complainant was given a copy of the parental rights, and therefore, it is determined that an opportunity to ensure that the Complainant understood the procedural safeguards was not presented. A violation of 511 IAC 7-1(d) occurred.
5. Finding of Fact #9 indicates that an *ITP* was written for the Student as part of the Student's *IEP* prior to school year when in which nondisabled students of the same chronological age begin to earn credits toward high school graduation. No violation of 511 IAC 7-13-4(a) occurred.
6. Findings of Fact #9 and #10 indicate that beginning at age 14, the Student's initial *ITP* included a statement of necessary transition services focusing on the Student's courses of study. No violation of 34 CFR 300.347(b)(1) occurred.
7. Finding of Fact #11 indicates that the Interlocal has complied with the final orders of the Board of Special Education Appeals with respect to developing procedures for obtaining signatures on proposed *IEPs*. No violation of 511 IAC 7-1-5-6 occurred.
8. Finding of Fact #3 indicates that the notification of the May 10, 2000 CCC meeting did not include the purpose of the meeting. A violation of 34 CFR 300.345(1)(i) and 511 IAC 7-12-1(d)(2) occurred.

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 Valparaiso Community Schools and the Porter County Education Interlocal shall:

1. provide a statement assuring that all student CCC meetings will include a general education teacher if a student is, or may be, participating in the general education environment. A copy of the assurance statement shall be submitted to the Division no later than August 25, 2000.
2. review and revise the current *Case Conference Notification* form to include an area indicating that parental rights have been provided to the parent at the time of notification. A copy of the revised *Case Conference Notification* form shall be submitted to the Division no later than August 25, 2000.
3. provide a statement assuring that all parents will be given the opportunity to discuss and understand the parent rights presented to them at CCC meetings. A copy of the assurance statement shall be presented to the Division no later than August 25, 2000.
4. provide a statement assuring that all *Case Conference Notification* forms will be completed to include the purpose of the meeting. A copy of the assurance statement shall be submitted to the Division no later than August 25, 2000.