

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1621.00
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: September 21, 2000
DATE OF REPORT: October 20, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: December 19, 2000

COMPLAINT ISSUES:

Whether the Anderson Community School Corporation violated:

511 IAC 7-27-7 with regard to the school's alleged failure to implement the student's *individualized education program* (the "IEP") as it is written, specifically, provision of an interpreter daily as needed.

During the course of the investigation, the following additional issue was identified by the complainant.

Whether the Anderson Community School Corporation violated:

511 IAC 7-27-7(5) with regard to the school's failure to include the anticipated length, frequency, location, and duration of related services in the student's *IEP*, and her classmates' *IEPs*, specifically, the provision of interpreter services.

511 IAC 7-27-7 with regard to the school's failure to implement the student's classmates *IEPs* as they are written, specifically, provision of interpreter as needed.

511 IAC 7-27-7 with regard to the school's alleged failure to implement the student's *IEP* as it is written, specifically, provision of an interpreter during the statewide assessment.

511 IAC 7-27-7 with regard to the school's failure to implement the student's *IEP*, and her classmates' *IEPs* as written, specifically, integrating the student and her classmates into the general education setting for handwriting when academic subjects are to be provided in the special education setting, and providing non-academic subjects in the self-contained classroom, when they were to be provided in the general education setting.

FINDINGS OF FACT:

1. The student (the "Student") is eight years old and attends an elementary school (the "School") outside of her home school. The Student is eligible for special education and related services as a student with a hearing impairment ("HI").
2. The Student's *IEP* dated February 7, 2000, indicates that she is to receive academic instruction in the special education setting. The *IEP* specifies that the Student will use a phonic ear six hours daily, signing and lipreading for six hours daily, and an interpreter as needed daily. The persons listed as being responsible for implementing the Student's *IEP* are the teacher, the teacher

assistant, or interpreter. The *IEP* indicates that the Student is to receive music, physical education, library, and art ("Specials") in the general education setting, with the phonic ear and interpreter, as needed, listed as accommodations and support services.

3. The *IEP* states that the Student "will fully participate in the standardized assessment program with accommodations." The accommodations are listed as "phonic ear-teacher mic., extra time, and interpreter."
4. The complainant (the "Complainant") reported the following with respect to the provision of interpreter services.
 - August 24-no interpreter all day
 - August 25-interpreter from 12:00 to 1:00 only
 - August 28-no interpreter for 2nd grade writing class (student teacher went in)
 - August 28-interpreter from 12:00 to 1:15
 - August 29-no interpreter for writing class (student teacher went in)
 - August 29-interpreter from 12:00 to 1:15
 - August 30-interpreter from 12:15 to 12:50 only
 - August 31-no interpreter for K-5 (student teacher went in)
 - August 31-no interpreter for writing class (student teacher went in)
 - August 31-interpreter from 12:00 to 1:15
 - September 1-no interpreter all day
5. On August 1, 2000, a reduction of force with regard to 13 classroom assistants was directed by the local school superintendent. A review of all of the classroom assistants and their assigned responsibilities was done, along with a review of all student needs. One of the two HI Classroom assistants (both of whom are able to sign) was reassigned. The HI teacher is licensed as a teacher of the hearing impaired.
6. The determination to re-assign one of the two HI Classroom assistants was based upon the following information.
 - A total of 10 students are assigned to the HI Classroom.
 - Two students require only consultation services and daily monitoring of amplifying equipment (one student is a second grader and receives 97% instruction in the general education setting, with the remainder of time being consultation, and the other student is a third grader and receives 85% services in the LD resource room, with the remainder of time in speech and consultation services). No interpreter services are indicated in these two students' *IEPs*
 - Two students are in kindergarten, and they are in the HI Classroom on a half-day basis (mornings). Both of the kindergarten students' *IEPs* indicate "interpreter as needed" for Specials.
 - The remaining six students (two students are second graders, one student is a third grader, and three students are fifth graders) have *IEPs* specifying delivery of academic instruction in the HI Classroom. Two of the six students have *IEPs* specifying "interpreter as needed" in handwriting instruction in the general education classroom. The six students' and the two kindergarten students' *IEPs* indicate Specials in the general education setting with "interpreter as needed." The Specials occur at the same time each day.
7. On August 22, 2000, the Director and the HI teacher discussed the need for a schedule for interpreters for Specials. On August 24 2000, (the first day of school) the Director received a schedule from the HI teacher requesting an interpreter daily from 12:25 p.m. to 1:15 p.m. for Specials. (Specials are at the same time each day) The Director reported that an interpreter was provided on August 25, 28, 29, 30, and 31, 2000, and September 1 and 5, 2000.

8. The Director reported that prior to September 5, 2000, none of the HI Classroom students were integrated into the general education setting for Specials, as indicated in their *IEPs*. The interpreter reported to the HI Classroom with the respective Specials' teachers. Although the HI Classroom assistant was available to provide interpretive services during the Specials, the HI teacher had the HI Classroom assistant use the time as "prep time."
9. The Director reported that there are only two students in the HI Classroom whose *IEPs* specify they are to receive their handwriting instruction in the general education setting. However, the HI teacher integrated other students, including the Student, from the HI Classroom into the general education setting for handwriting, although their *IEPs* did not indicate such.
10. The Director called all school principals on September 6 and 7, 2000, and requested a list of all students requiring accommodations in order to take the statewide assessment (the "Test") so that personnel arrangements could be made. While making follow-up calls on September 14 and 15, 2000, the Director spoke to the principal of the School who reported that the HI teacher did not submit a list of students from the HI Classroom requiring assistance.
11. The principal of the School reported that the HI teacher and the resource teacher took turns interpreting the Test for the Student.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the Student's *IEP* requires an interpreter, only on an as needed basis, for both academics and Specials. Finding of Fact #6 indicates that there are seven other students whose *IEPs* require an interpreter, only on an as needed basis, for both academics and Specials. Findings of Fact #5, #7, and #8 indicate that both the HI teacher and HI Classroom assistant are able to sign, and are accessible to the students, and an interpreter has been available for Specials; however, the *IEPs* in place for the Student and her classmates do not specify the length, frequency, location, and duration of interpretive services. A violation of 511 IAC 7-27-7 occurred with regard to implementing the Student's *IEP*, and seven of the Student's classmates' *IEPs*. Further, a violation of 511 IAC 7-27-7(5) occurred with regard to including the length, frequency, location, and duration of services in the Student's *IEP*, and seven of her classmates.
2. Findings of Fact #3, #10, and #11 indicate that the Student was provided an interpreter during the statewide assessment. No violation of 511 IAC 7-27-2 occurred with respect to implementing the Student's *IEP*, specifically, provision of an interpreter during the statewide assessment.
3. Finding of Fact #4 indicates that no interpreter was provided during writing class; however, Findings of Fact #6 and #9 indicate that the Student, and other students from the HI Classroom were integrated into the general education setting for writing, although Findings of Fact #2 and #6 indicate that only two students from the HI Classroom were to be integrated into the general education setting for handwriting. Additionally, Findings of Fact #2, #6, #7 and #8 indicate that the Student and her classmates were not integrated into the general education setting for Specials, as specifically stated in her *IEP* and her classmates' *IEPs*. A violation of 511 IAC 7-27-7 occurred with respect to implementing the Student's and her classmates' *IEPs* as written, specifically providing academic instruction in the general education setting and Specials in the HI Classroom.

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 Anderson Community School Corporation shall:

1. reconvene the CCCs for the eight students in the HI Classroom whose *IEPs* state "interpreter as needed" in order to determine, and include in the revised *IEPs*, the length, frequency, location, and duration of interpreter services to be provided to each student. **A copy of each student's revised *IEP* shall be submitted to the Division no later than November 30, 2000.**
- 2.a. require the HI teacher to submit weekly documentation indicating that academic instruction and Specials have been provided in the HI Classroom and the general education setting, respectively to those students whose *IEPs* require such. **Documentation of the first weekly accounting shall begin the week of November 20, 2000, and faxed to the Division at the end of the instructional day on November 24, 2000. Subsequent accountings shall be faxed to the Division at the end of each instructional day on the following dates: December 1, 8, and 15, 2000.**
- 2.b. Further, a statement shall be signed by the HI teacher assuring that academic instruction and Specials will be provided to students in the specific settings as indicated in their *IEPs*. **The assurance statement signed by the HI teacher shall be submitted to the Division no later than November 22, 2000.**

DATE REPORT COMPLETED: October 20, 2000