

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1753.01  
**COMPLAINT INVESTIGATOR:** Steve Starbuck  
**DATE OF COMPLAINT:** May 11, 2001  
**DATE OF REPORT:** June 15, 2001  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** October 12, 2001

**COMPLAINT ISSUES:**

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

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide monthly progress reports of monitored benchmarks and objectives to the parent; and
- b. failing to implement the goals and benchmarks contained in the IEP of January 17, 2001.

511 IAC 7-27-6(a)(6) with regard to the school's alleged failure to utilize the case conference committee (CCC) to determine the extent to which the student will not participate with nondisabled students in nonacademic activities, specifically, during the student's lunch period.

The complaint investigation report was originally due on June 8, 2001; however, because the planning district was unable to provide the division of special education (the Division) with a written response until June 6, 2001, an extension was approved by the state director of special education extending the deadline until June 15, 2001.

**FINDINGS OF FACT:**

1. The student is sixteen years old, will attend the eleventh grade this fall, and has been determined eligible for special education due to an emotional disability.
2. The IEP written on January 17, 2001, has an implementation date of January 17, 2001, through January 17, 2002. Pages 17 and 18 of the IEP dated January 17<sup>th</sup>, lists the annual goals and benchmarks for the student. It is indicated on the forms that progress made towards these benchmarks will be provided via copies of the goal/benchmark pages. The forms reflect that copies of the monitored benchmarks will be provided to the parent on a monthly basis. The supervisor reports the first benchmark pages indicating the student's progress were provided to the parent on February 15, 2001. The parent acknowledges receiving these benchmark sheets around this date. It was the parent's understanding that in the future she would receive the benchmark sheets around the 15<sup>th</sup> of each month. The parent asserts she did not receive copies of the benchmark sheets dated March 1<sup>st</sup>, April 1<sup>st</sup>, and May 1<sup>st</sup>, 2001, in a timely manner. The parent reports she received the March 1<sup>st</sup> benchmark sheets in the mail with the report card dated April 6<sup>th</sup>; the April 1<sup>st</sup> benchmark sheets were brought home from school by her son on April 20<sup>th</sup>; and the May 1<sup>st</sup> benchmark sheets were received in the mail with the report card dated June 4<sup>th</sup>. The supervisor states it was discussed and agreed upon at the CCC meeting that the student would be given

progress reports on grades and benchmarks to take home to his mother on a monthly basis. Page 21 of the IEP dated January 17<sup>th</sup> indicates that progress reports on grades will be provided to the student who will give them to his mother. The IEP does not indicate how the parent will be provided copies of the benchmark sheets on a monthly basis.

The school was unable to provide documentation to verify that the parent received monthly benchmark sheets that indicated the student's progress made towards the goals/benchmarks.

3. The student's IEP of January 17<sup>th</sup> contains two behavior management goals. One goal has three benchmarks and the other one has four benchmarks. The supervisor reports the goals and benchmarks are monitored frequently to assess the student's acquisition of skills. A behavior specialist was assigned full-time to the student's self-contained classroom. On a random basis, the behavior specialist monitored the student's behavior to determine the student's progress made towards the benchmarks listed in the IEP. This data was then compiled for each benchmark every nine weeks to determine the progress made by the student. Copies of the behavior specialist's logs indicate implementation occurred on some of the goals and benchmarks while the student received instruction in the self-contained classroom. The logs also reflect that the student's behavior in the self-contained classroom was monitored on a regular basis from August 23, 2000, through May 23, 2001. However, the behavior specialist's logs reflect that two of the benchmarks listed in the January 17<sup>th</sup> IEP were never monitored. These benchmarks are: 1) will be tolerant of persons with characteristics different from his own; and, 2) will describe feelings and moods verbally. In addition, the student participates in the general education environment for part of the instructional day. The supervisor indicates in her written response that only academic progress was measured in the general educational setting, and that the behavior goals and benchmarks were only monitored and implemented in the self-contained classroom. The IEP does not reflect that the goals/benchmarks are only to be implemented in the special education setting.
4. The parent asserts that changing the location where the student eats lunch is a CCC decision. The parent states at a previous CCC meeting it was determined that the student would eat lunch at the building where he attends school in the self-contained classroom. Page 16 of the IEP dated May 10, 2000, reflects this determination. In late March 2001, the student expressed an interest to eat lunch at the local high school. This is the location the student would be eating lunch if he were not in a more restrictive educational environment. After written parental consent was received on April 4, 2001, the student began eating lunch at the high school. The supervisor made note of this change on a page of the IEP dated January 17, 2001, and then faxed a copy of this page to the parent. The supervisor states she recorded this on the IEP document only as a way of reminding her that the student had changed lunch sites, and was not attempting to make a unilateral decision, or to make a decision outside of a CCC meeting.

#### **CONCLUSIONS:**

1. Finding of Fact # 2 reflects the school failed to provide the parent with monthly progress reports of monitored benchmarks and objectives in a timely manner for the months of March, April, and May 2001. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates the procedure utilized to monitor and implement the goals and benchmarks for the student was never implemented for two of the benchmarks listed in the student's IEP dated January 17, 2001. In addition, the behavior goals and benchmarks were not implemented in the general educational setting as required by the IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 reflects that on April 4, 2001, the student started eating lunch with nondisabled peers at the location he would have eaten lunch if he had not participated in a more restrictive

educational environment. This decision did not require the consensus of a CCC, because the student's right to participate in lunch with nondisabled peers was no longer restricted. Therefore, no violation of 511 IAC 7-27-6(a)(6) 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 Valparaiso Community Schools and the Porter County Education Interlocal shall:

1. Send a memorandum to the student's teacher of record reminding him/her that it is their responsibility to ensure progress reports are provided to the parent as required by the student's IEP. Submit a copy of the memorandum to the Division no later than September 14, 2001.
2. Develop a written procedure to document and ensure the parent's receipt of progress reports according to the requirements specified in the student's IEP. Submit a copy of the procedure along with any supporting documents to the Division no later than September 14, 2001.
3. Develop a written procedure to document and ensure the student's teacher of record complies with the requirements specified in 511 IAC 7-17-72 and 511 IAC 7-27-7(b). Submit a copy of the procedure along with any supporting documents to the Division no later than September 14, 2001.
4. Submit to the Division no later than September 14, 2001, a letter of assurance that ensures all IEPs developed for the student will be implemented as written. The letter of assurance shall be signed by the planning district's director and supervisor.

DATE REPORT COMPLETED: June 15, 2001