

Indiana Department of Education

Division of Exceptional Learners

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1855.02  
 COMPLAINT INVESTIGATOR: Sandie Scudder  
 DATE OF COMPLAINT: January 17, 2002  
 DATE OF REPORT: February 15, 2002  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: March 20, 2002

**COMPLAINT ISSUES:**

Whether the New Castle Community School Corporation and the New Castle Area Programs violated:  
 -511 IAC 7-21-7(c) by failing to include a written student-specific justification in the student's record when the transportation time for a student with a disability exceeds the transit time of nondisabled students.

During the course of the investigation, an additional issue was identified, which is:

Whether the New Castle Community School Corporation and the New Castle Area Programs violated:  
 -511 IAC 7-21-4(a) by unilaterally shortening the Student's instructional day.

**FINDINGS OF FACT:**

1. The student (Student) is 9 years old, is in 4<sup>th</sup> grade, and is eligible for special education and related services as a student with multiple disabilities and a communication disorder.
2. The Complainant reported that the Student is on the school bus for approximately 1 hour and 40 minutes for the return trip home from school. The Student does not reside in the same school district where she attends school. The bus picks up the Student at her home, but on the return trip home the Student is left at the grandparent's home. The director stated that transportation time for nondisabled students averages 40 to 45 minutes on the longer routes. The Case Conference Summary/IEP dated April 18, 2001, does not include a student-specific justification as to why the Student is on the bus for an extended amount of time.
3. The director unilaterally decided that beginning January 28, 2002, a school bus would pick up the Student from school at 2:05 p.m., and would arrive at the Student's home in less than 20 minutes. Nondisabled students who attend the school where the Student's educational program is located are dismissed at 2:15 p.m. Therefore, the Student misses approximately 10 minutes of educational services each school day. The teacher of record (TOR) stated that on January 29, 2002, the bus began picking up the Student up at 2:05 p.m. for the return trip home. The Complainant stated that the Student arrives home before 2:30 p.m.

**CONCLUSIONS:**

1. Finding of Fact #2 establishes that the school failed to include in the Student's education record a student-specific justification regarding the Student's extended transit time. Therefore, a violation of 511 IAC 7-21-7(c) is found.

2. Finding of Fact #3 reflects that, beginning January 28, 2002, the School unilaterally shortened the Student's instructional day for transportation reasons. The CCC has made no determination that the Student requires a shortened instructional day. Therefore, a violation of 511 IAC 7-21-4(a) 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 New Castle Community School Corporation and the New Castle Area Programs shall:

1. convene the Student's CCC to discuss the Student's need for a shortened instructional day. Administrative or transportation convenience may not be considered as the basis for shortening the Student's instructional day. The CCC shall also determine the Student's need for compensatory services because of early dismissal from class. **A copy of the CCC Report/IEP, including the CCC's discussion and determination regarding length of instructional day and compensatory services shall be submitted to the Division no later than March 18, 2002.**
2. send a written memorandum to appropriate personnel reminding them that: (A) a student-specific justification must be included in a student's educational record when the student's transit time exceeds that of non-disabled students of comparable age in the same school corporation, and (B) that the length of a student's instructional day must be determined by the CCC and cannot be a unilateral determination by school personnel. **A copy of the memorandum, and a list of people who received a copy of the memorandum must be submitted to the Division no later than March 18, 2002.**

DATE REPORT COMPLETED: February 15, 2002