

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1909.02
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	May 3, 2002
DATE OF REPORT:	May 31, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 16, 2002

COMPLAINT ISSUES:

Whether the North Montgomery Community School Corporation and the West Central Indiana Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education (IEP) as written, specifically, failing to implement identified modifications and accommodations.

511 IAC 7-28-3(b) by failing to include in the IEP a statement of needed transition services that guides the development of special education and related services and the student's course of study, goals, benchmarks and short-term objectives, including the items identified in 511 IAC 7-28-3(b)(1), (2), and (3).

511 IAC 7-28-3(d) by failing to review the student's status with the vocational rehabilitation counselor at least one time per year, and failing to provide notice to the vocational rehabilitation counselor regarding the case conference committee (CCC) meeting during the school year prior to the student's projected final year of school.

FINDINGS OF FACT:

1. The student (Student) is 17 years old, is in the 11th grade, and is eligible for special education and related services as a student with a learning disability.
2. The Complainant asserts that the CCC did not address transitioning, including Vocational Rehabilitation Services. The IEP dated April 16, 2001, state that transition services were initially addressed for the Student at the annual case review in April 1998, before the Student entered 8th grade. The transition plan dated April 16, 2001, states that the Student is "not likely to need on-going services." The IEP dated September 18, 2001, includes a transition plan stating that the Student "is likely to need on-going services." The transition plan was reviewed on November 28, 2001, and April 9, 2002. The Student's IEP specified the type of transition services the Student needs and identified a coordinated set of activities designed to promote transition, identified the individuals and agencies responsible, but the IEP contained no information regarding whether the Student would need adult services through other agencies after graduating from high school.
3. The CCC identified the Student as a student who would "likely need on-going services" on September 18, 2001; however the Student's IEPs dated November 28, 2001, and April 9, 2002, do not document that the Student's vocational needs were reviewed with a vocational counselor. The Director stated

that on September 18, 2001, when the Student was identified for on-going adult services, the Student had a total of 17 credits of the required 42 credits to graduate. Since the Student would not be graduating at the end of the 2002-2003 school year as planned, the 2001-2002 school year would not be considered "the school year prior to the Student's projected final year of school"; therefore, a vocational rehabilitation counselor was not provided with a notice of the CCC meeting on April 9, 2002. The IEPs from the school year 2001-2002 document that the Student's projected final year for the Student to attend school is 2003. The Complainant did invite a vocational counselor to attend the April 9, 2002, CCC meeting.

4. Due to medical issues, the Student's attendance and school arrival time have been sporadic. As of April 9, 2002, the Student had 23 credits and needed 42 credits to graduate at the close of the 2002-2003 school year. Although the Complainant alleges that the classroom teachers of Life Science, English, and U.S. History have not implemented the modifications of shortening lengthy assignments and reducing the amount of class work the Student is required to complete, the Complainant could provide no specific examples of the alleged lapse in the Student's English or U.S. History classes. With regard to the science class, the Complainant asserts that the Student was assigned the same worksheets as other students, with no reduction in how much of the assignment the Student was required to complete. Because of the length of the worksheets, the Student only completed approximately 75% of the assignment, and the Student's grade was reduced for failing to complete the entire assignment. The Complainant did not discuss the issue with the science teacher.
5. IEPs dated, April 16, 2001, September 18, 2001, November 18, 2001, and April 9, 2002, list 13 modifications, including:

- Modify lengthy written assignments and allow oral presentations;
- Work will be reduced, same for other students just smaller quantity; and
- Modified test will be provided (reduced multiple choice, word bank, limited essay, matching will be in smaller blocks).

The IEP dated April 30, 2002, lists 15 modifications, including the same 3 modifications specifying reduced paper work

6. The classroom teachers for Life Science, U.S. History, and English submitted documents explaining how modifications were used in the classroom. The teachers highlighted the following modifications as being used with the Student when in attendance:
 - Allowed extra time;
 - Reduced assignments and tests; and
 - Allowed to go to the resource room for assistance.

However, the science teacher indicated that not all of the assignments given to the Student were shortened, although a majority of the assignments were reduced.

CONCLUSIONS:

1. Finding of Fact #2 establishes that the April 16, 2001, IEP documents that the CCC began addressing transition services during the April 1998, CCC meeting. On September 18, 2001, the School identified the Student in need of on-going adult services, and reviewed the plan on November 28, 2001, and on April 9, 2002. Although the IEP addresses the various criteria required by 511 IAC 7-28-3(b), it fails to address whether the CCC expects that the Student will require adult services provided through state or local agencies following graduation. The failure to include this information results in a violation of 511 IAC 7-28-3(b).
2. Finding of Fact #3 indicates that the School failed to provide a vocational rehabilitation counselor with a notice of the CCC meeting that convened on April 2, 2002, prior to the Student's final year of school.

The Director stated that the CCC realized in September 2001, that the student had only earned 17 of 42 credits to graduate, yet the IEP documents 2003 as the projected final year of school. Based on the IEP, the 2001-2002 school year was the year prior to the Student's final year in school, and the school should have provided notice to the counselor regarding the CCC meeting. Therefore, a violation of 511 IAC 7-28-3(d) is found.

3. Findings of Fact #4, #5, and #6 reflect that the Student's assignments were to be reduced as one modification identified in the IEP for the 2001-2002 school year, but that in at least one instance, the science teacher failed to implement this modification. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The North Montgomery Community School Corporation and the West Central Indiana Special Education Cooperative shall:

1. Submit an assurance statement:
 - a. that a vocational rehabilitation counselor will receive adequate notice of scheduled CCC meetings for students in need of vocational services prior to the students' projected final year of school, and that the status of qualified students will be reviewed with the vocational rehabilitation counselor yearly.
 - b. that, when developing a statement of needed transition services in a student's IEP, the statement will include an indication of whether there is an expectation that the student will need services from state or local agencies after graduating or otherwise exiting from high school.

A copy of the assurance statement shall be submitted to the Division no later than June 12, 2002.

2. Send a written reminder to the Student's teachers that the modifications identified in the Student's IEP are to be implemented as described. **A copy of the written reminder and a list of individuals to whom the memorandum was sent shall be submitted to the Division no later than September 3, 2002.**
3. Reconvene the CCC to address whether the Student is expected to need services from other state or local agencies upon graduating or otherwise exiting from high school and to review the Student's progress to determine the Student's anticipated last year of high school, so that both the parent and the school know when contact with a vocational rehabilitation counselor must be made and the counselor invited to the CCC meeting. **A copy of the CCC Report/IEP shall be submitted to the Division no later than September 13, 2002.**