

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2004.03
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	February 4, 2003
DATE OF REPORT:	March 6, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 10, 2003

COMPLAINT ISSUES:

Whether MSD Perry Township and RISE Special Services violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

In the course of the investigation, another complaint issue was identified, namely whether MSD Perry Township and RISE Special Services violated:

511 IAC 7-27-7(d) by continuing to implement an individualized education program for a period of more than twelve (12) months.

FINDINGS OF FACT:

1. The Student is 17 years old and attends the local high school ("the School"). The Student has been determined eligible for special education under the disability category of other health impairment.
2. The Student's IEP expired on January 23, 2003, when the CCC failed to adopt a new one within the 12-month timeframe. The Complainant missed a CCC meeting on December 3, 2002, to discuss this matter. The School has continued to operate under the provisions of the old IEP.
3. The Complainant asserts that the Student's IEP has not been followed consistently, and that Attention Deficit/Hyperactivity Disorder is not taken seriously by School personnel. The Complainant no longer receives weekly reports of the Student's progress, and says that the Student's assignments are not being modified as they are supposed to be (extra time if necessary, and appropriate skill levels and types of problems). Other accommodations call for tests to be read aloud if necessary, and for preferential seating to be provided. The old IEP states that the School will keep the Complainant informed of the Student's progress toward the annual goal at each grading period, and that the Complainant will be contacted if the Student fails to turn in assignments or teachers have specific concerns. The IEP does not specifically call for weekly reports. The Complainant has been informed many times about the Student's progress, although some teachers have made several contacts and others have made few. It has normally been necessary for School personnel to leave a voice message for the Complainant. Progress reports have been sent home, and the School recently began sending them and other correspondence via certified mail because it appeared that the Complainant was not receiving them.

4. There is no clear evidence that accommodations are not being provided to the Student. The Student is taking several inclusion classes, specifically designed for students with disabilities. The Student has participated in remediation classes for ISTEP+ and in tutoring.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School continues to operate under the provisions of the old IEP, which is more than 12 months old. Therefore, a violation of 511 IAC 7-27-7(d) is found.
2. Findings of Fact #3 and #4 indicate that appropriate steps were taken to notify the Complainant of the Student's progress and specific concerns, and that accommodations and modifications appear to have been provided. Therefore, no violation of 511 IAC 7-27-7(a) is found.

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

CORRECTIVE ACTION:

MSD Perry Township and RISE Special Services shall:

1. immediately convene a CCC meeting, during which time a new IEP will be developed with specific attention to appropriate accommodations and modifications, steps that will be taken to help the Student become more productive, transition services, and other concerns of the Complainant. The Complainant will be contacted in advance, to find a mutually agreeable time on or before March 27, 2003.

Copies of the CCC meeting report and the new IEP, signed by the Complainant, will be submitted to the Division no later than April 4, 2003.