

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2029.03
COMPLAINT INVESTIGATOR: Connie Rahe
DATE OF COMPLAINT: April 21, 2003
DATE OF REPORT: May 20, 2003
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 20, 2003

COMPLAINT ISSUES:

Whether the Plainfield Community School Corporation and the West Central Joint Services violated:

511 IAC 7-27-7(b)(1) by failing to have the student's teacher of record (TOR) monitor the implementation of the student's individualized education program (IEP), specifically, by failing to provide progress reports to the parents.

511 IAC 7-18-2(a) by failing to provide a free and appropriate public education (FAPE), by having the student take tests in the hallway or the library.

511 IAC 7-27-5(d)(3) and (f) by failing to obtain written consent from the parent when the school proposes a revised IEP that involves a change of placement, and by implementing the change of placement without written consent of the parent.

511 IAC 7-22-2(a) by failing to provide a written notice to the parent before proposing to initiate a change in the student's education placement.

511 IAC 7-25-7 by failing to conduct an educational evaluation upon the request of the parent.

511 IAC 7-26-12(c) by failing to provide all professional and paraprofessional staff serving the student with specialized training in the area of other health impairment.

511 IAC 7-27-4(c) by unilaterally developing the student's IEP without utilizing the case conference committee (CCC).

FINDINGS OF FACT:

1. The Student is 13 years old, attends the local middle school (the School), and qualifies for special education and related services under the categories of learning disability (LD) and other health impaired (OHI).
2. The Student's IEPs in effect for December 6, 2001, through the current school year stated progress reports are to be provided by report card to the Complainant on a 9-weeks schedule. The Complainant has not been provided progress reports except for March 18, 2003, during the 2002 to 2003 school

year. The School sent a weekly printout of the Student's grades earned in each class when requested by the Complainant, beginning February 19, 2003, and weekly homework requirements. These did not address progress toward goals. The School sent the Complainant a report of progress toward goals at each 9-weeks grading period, with the report card, during the 2001 to 2002 school year.

3. Students enrolled in the School who are enrolled in either general education services or special education services have tests administered individually in the media center (the library) and individually in the hallway. While there are other locations available to the staff, these two locations are most commonly utilized for individual testing by all students enrolled in the School. The Student's current IEP does not address the location where individualized tests may be administered.
4. The IEP developed December 6, 2001, provided for special education services in the resource room for 30 minutes, 4 times per week, and an inclusion aide for reading two times per week in the general education classroom. The IEP developed October 15, 2002, changed the Student's IEP to services in the general classroom only, with consultation by the special education teacher on an "as needed basis," for one period daily in the general education classroom. The parent attended the case conference on October 15, 2002, but had received no written notification of a proposed change of placement and did not sign agreement to the change of placement and services for the IEP developed October 15, 2002. CCC summary notes do not indicate the change of placement was discussed with the Complainant. The School acknowledges that the Complainant did not sign agreement to the change of placement in the revised IEP of October 15, 2002.
5. The Complainant requested the School conduct a comprehensive visual evaluation to determine if the Student's visual motor developmental delays would necessitate therapy to benefit her educational progress. The Complainant discussed this request in the CCC meeting of February 13, 2003, and requested in writing again on February 16, 2003. The School replied in a letter dated February 19, 2003, that they concurred that the Student has a weakness in the area of visual motor coordination, but they did not agree with the need, or recommend further evaluation, for the Student. The letter states that the School deals with students who are visually impaired, but nothing in the Student's records indicates she meets the qualifications for visual impairment, so the School would not consider the Student for evaluation from the consultant for visual impairment.
6. The Complainant asserts the School's teachers and paraprofessionals appear to not understand how ADHD affects the Student's academic functioning and reported that paraprofessionals do not receive training in the area of the Student's disability, under other health impaired disability category. The School provided information regarding training in the Student's specific area of disability this year for all special education teachers but did not include information on training for paraprofessional staff or general education teachers in the area of the Student's health impairment.
7. The Complainant asserts that IEPs were filled out in advance of CCC meetings or developed in a laptop computer, but only sections determined by the School were discussed at CCC meetings. The Complainant cited as examples the failure of the School to inform the Complainant of changes in placement (Finding of Fact #4) and failure to discuss in CCC the change in location of services, resulting in a failure to procure a signature of agreement from the Complainant when the IEP was developed October 15, 2002. The TOR stated that the laptop computers at case conferences typically contain the previous IEP and changes are typed into the program as they are discussed in the conference. The TOR maintained that the School has always discussed each requirement in the IEP, although the sequence of discussions may change from conference to conference. No written documentation was provided to support that IEPs were unilaterally prepared prior to the CCC meeting.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School failed to provide progress reports toward IEP goals each 9 weeks during the 2002 to 2003 school year. Therefore, a violation of 511 IAC 7-27-7(b)(1) for failing to have the student's teacher of record (TOR) monitor the implementation of the student's individualized education program (IEP), specifically, by failing to provide progress reports to the parents.
2. Finding of fact #3 indicates the Student's IEP does not address the testing location or environment, and the location for testing is the same as for students not enrolled in special education. Therefore, no violation of 511 IAC 7-18-2(a) is found for failing to provide a free and appropriate public education by having the student take tests in the hallway or the library.
3. Finding of fact #4 indicates the School failed to procure written consent for the Student to receive a reduction in special education services and a change in location from a resource room to services in the general education classroom only. Therefore, a violation of 511 IAC 7-27-5(d)(3) and (f) is found for failing to obtain written consent from the parent when the school proposes a revised IEP that involves a change of placement, and by implementing the change of placement without written consent of the parent.
4. Finding of fact #4 also indicates the School failed to provide a written notice to the parent before proposing to initiate a change in the student's education placement. Therefore, a violation of the 511 IAC 7-22-2(a) is found.
5. Finding of fact #5 indicates the School failed to conduct an educational evaluation upon the request of the parent. Therefore, a violation of 511 IAC 7-25-7 is found.
6. It is the School's responsibility to document that training has been provided, as required in Article 7, for teachers and paraprofessionals who work with students. Finding of fact #6 indicates the School failed to document that training was provided for general education teachers and paraprofessionals who work with the Student. Therefore, a violation of 511 IAC 7-26-12(c) is found for failing to provide specialized training in the area of other health impairment for all professional and paraprofessional staff serving the Student.
7. Finding of Fact #7 indicates no documentation was provided to indicate that the School failed to discuss the content of the IEP with the full case conference committee. Therefore, no violation of 511 IAC 7-27-4(c) is found for unilaterally developing the student's IEP without utilizing the case conference committee. (CCC).

CORRECTIVE ACTION:

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

The Plainfield Community School Corporation and the West Central Joint Services shall:

Distribute a memorandum to all special education personnel in the school corporation by the last day of the current school year, reminding them of the following obligations:

1. The requirements under 511 IAC 7-27-7(b)(1) for teachers of Record to monitor the implementation of IEPs of students to whom they are assigned, with specific requirements, as outlined in 511 IAC 7-17-72;

2. The requirements under 511 IAC 7-27-5(d) and (f) to obtain written consent of the parent;
3. The requirement under 511 IAC 7-22-2(a) to provide written notice to the parent before proposing to initiate a change in the student's educational placement;
4. The requirement under 511 IAC 7-25-7 to conduct an educational evaluation upon the request of a parent;
5. The requirement under 511 IAC 7-26-12(c) to provide professional and paraprofessional staff serving students with an other health impairment to provide specialized training in the area of the student's health impairment; and

A copy of the memorandum and an assurance statement from the Director and Superintendent shall be forwarded to the Division by June 20, 2003, stating the following:

- a. All special education staff have been informed of the above requirements in Article 7, and the school corporation agrees to comply with such requirements;
- b. The School agrees to providing reports of progress toward goals according to a schedule in each student's IEP; and
- c. Training in the area of ADHD will be provided for all special education and general education staff and paraprofessionals prior to working with the Student, and will also be provided as ongoing training,