

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2061.04
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	September 24, 2003
DATE OF REPORT:	October 24, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 5, 2003

**COMPLAINT ISSUES:**

Whether the Eastern School District of Greene County and the Orange-Lawrence-Jackson-Martin Joint Services violated:

511 IAC 7-26-13(d) by failing to provide specialized inservice training to all professional and paraprofessional staff serving a student with a primary disability for traumatic brain injury (TBI).

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

- a. Implement identified goals and objectives through the Community Based Instruction (CBI) Program;
- b. Provide identified accommodations and modifications (a visual daily schedule); and
- c. Provide an occupational therapy (OT) progress report.

511 IAC 7-27-7(b) by failing to ensure the student's teacher of record (TOR) monitors the implementation of the student's IEP, specifically the student's behavior intervention program (BIP), provides technical assistance and/or consultation to all personnel working with the student, and carries out all other activities as stated in 511 IAC 7-17-72.

511 IAC 7-27-9(b) by failing to make available to students with disabilities the variety of educational programs and services that are made available to nondisabled students.

511 IAC 7-27-2 by failing to provide adequate notice to the student's parent of the time or date of a scheduled case conference committee (CCC) meeting.

During the course of the investigation, an additional issue was discovered:

511 IAC 7-17-72 by failing to designate a single teacher of record (TOR) to whom the student is assigned.

**FINDINGS OF FACT:**

1. The Student is eighteen years old, and is eligible for special education and related services as a student with a traumatic brain injury, communication disorder, and moderate delay.
2. The School has failed to provide specialized inservice training to some professional and paraprofessional staff serving the student. The School acknowledges that the current, part-time teacher's aide has not been

formally trained in TBI. As a corrective action, the School held a formal TBI inservice training on October 15, 2003, for staff serving the Student.

3. The Student's individualized education programs, dated August 28, 2003 and September 12, 2003, include the following goals and objectives for the CBI Program: to improve daily living skills by having the Student participate in CBI activities eight times a semester, meal preparation activities nine times a semester, and explore possibilities of off-site jobs. The Complainant was informed at the September 12, 2003, case conference that the CBI program no longer exists. The teacher's aide and licensed teacher who were responsible for implementing the CBI Program no longer work for the School, and due to financial constraints these positions have not been filled. The IEP has not been adjusted to reflect the changes in the CBI Program. In addition, there is no documentation available that shows implementation of the CBI goals and objectives. To date, off-grounds activities and meal preparations have not taken place.
4. The School failed to post a visual daily schedule as stated in the IEP. The School acknowledges the failure to implement a visual daily schedule at the beginning of the School year. The Student's current schedule is posted.
5. The Occupational Therapist prepared a progress report for the March 4, 2003 case conference, but the OT report was not presented at the meeting. The Complainant expected to receive the report at that meeting; however, the IEP does not require an OT progress report. And, the IEP does not include OT goals or objectives aside from assigning 30 minutes of therapy each week. As a corrective action, the Special Education planning district is developing a process to ensure that therapy reports are given to CCC coordinators.
6. The Complainant alleges the School failed to monitor the Student's behavior in the hallways, lunchroom, and in the conditioning class. The BIP states: "staff to monitor behavior in hallways/lunch with fading intervention." The conditioning class is not listed in the BIP. The School acknowledges that, currently, the Student is no longer being monitored in the hallways and the lunchroom. There is no documentation available to show that the TOR is monitoring the implementation of the Student's BIP. It is unclear how the fading intervention is working.
7. The Complainant alleges that the School excluded the Student from the Spring Sports Awards Program held on June 11, 2003, and from the athletic physicals being conducted at the School on June 13, 2003, by failing to mail the invitation letters to him. The School acknowledges that the Spring Sports Awards Program invitations were mailed to the athletes. The Student was a manager of the team and the School mistakenly did not send him an invitation. No copies of the notice for physicals were distributed to the athletes. Instead, the information was placed on the School marquee, newspaper, read as a school announcement, and given to the coaches to share with the team members.
8. The Complainant did not attend the August 20, 2003, case conference because she did not receive the notification letter, dated August 19, 2003, faxed to her by the Case Conference Coordinator. The School acknowledges that the Complainant did not receive the notification letter, and noted that the case conference was rescheduled for August 28, 2003.
9. The Student has three teachers of records: one for TBI, one for the communication disorder, and one for moderate delay.

## CONCLUSIONS

1. Finding of Fact #2 indicates the School failed to provide inservice training to professional and paraprofessional staff servicing the Student. Therefore, a violation of 511 IAC 7-26-13(d) is found. However, appropriate corrective action has been taken.
- 2.a. Finding of Fact #3 indicates the School failed to implement the Student's IEP as written. A violation of 7-27-7(a) is found, with regard to implementing the identified goals of the CBI Program.
- 2.b. Finding of Fact #4 indicates the School failed to implement the Student's IEP as written. A violation of 7-27-7(a) is found, with regard to providing a visual daily schedule for the Student.
- 2.c. Finding of Fact #5 indicates the IEP does not require an occupational therapy progress report; therefore, no violation is found. However, the IEP does not include OT goals or objectives, or a method for reporting OT progress.
3. Finding of Fact #6 indicates there is no documentation available to show that the TOR has monitored the implementation of the Student's IEP and BIP. Therefore, the TOR has failed to monitor the IEP and the BIP, and a violation of 511 IAC 7-27-7(b) is found.
4. Finding of Fact #7 indicates the School did not make available to the Student the same educational programs and services available to nondisabled students by failing to mail the Springs Sports Awards Program letter to the Student. Therefore a violation of 511 IAC 7-27-9(b) is found.
5. Finding of Fact #8 indicates the School did not convene on August 20, 2003, so no violation of 511 IAC 7-27-2 is found. There is no indication that a CCC meeting was held on this date. At best, it appears the School attempted to hold a CCC meeting, but realized the Parent did not receive the notice and rescheduled the meeting for the next week. Therefore, no violation is found.
6. Finding of Fact #9 indicates the School has assigned three teachers of records to the Student. Therefore, a violation of 511 IAC 7-17-72 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 Eastern School District of Greene County and the Orange-Lawrence-Jackson-Martin Joint Services shall:

1. Conduct an inservice training on the nine responsibilities of the teacher of record, IAC 511 7-17-72, for all teachers of record at the School and other relevant special education personnel. An inservice training agenda, any materials dispersed, and a sign-in list of the attendees shall be submitted to the Division no later than November 21, 2003.
2. Convene the CCC meeting to determine: one teacher of record; OT goals and objectives, and ways to measure and report progress of the occupational therapy; whether to continue to monitor the Student in the hallway/lunchroom, if so, clarify how to document this and the fading intervention; and, to revise the goals and objectives of the CBI program as it currently exists. A copy of the case conference notes and the revised IEP shall be submitted to the Division no later than November 21, 2003.
3. Submit to the Division no later than November 21, 2003, documentation ensuring the Student received his letter-award from the Spring Sports Awards Program.