

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2067.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	October 17, 2004
DATE OF REPORT:	November 13, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	March 2, 2004

COMPLAINT ISSUES:

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

511 IAC 7-21-5 by failing, during construction, to provide wheelchair accessible entrances/exits to school buildings including modular (portable) units and by failing to include in the school's disaster plan provisions for evacuating students in wheelchairs.

511 IAC 7-27-7(a) by failing to implement the students' individualized education programs as written, specifically by removing the students from their classrooms and failing to provide educational services when aides are not available or are assigned to other tasks.

FINDINGS OF FACT:

1. Student A is seven years old and is eligible for special education and related services due to multiples disabilities, a visual impairment, and a communication disorder. Student B is nine years old and is eligible for special education and related services due to multiple disabilities and a communication disorder. Student C is four years old and is eligible for early childhood special education and related services due to a severe mental disability. Student D is ten years old and is eligible for special education and related services due to an orthopedic impairment. Students A, B, C, and D all utilize wheelchairs.
2. The School that Students A, B, C, and D attend consists of a large building with multiple entrances/exits and four modular buildings.
3. Some, but not all, of the School's entrances/exits are wheelchair-accessible. A section of the School is under re-construction, with the result that the main entrance is currently not used by anyone. The main entrance is not the only wheelchair-accessible entrance/exit. Other entrances/exits remain in use, have not been altered as a result of the construction project, and will remain in use following construction.
4. The School's fire drill and tornado drill instructions do not contain provisions for evacuating students who utilize wheelchairs, walkers, or have other special mobility needs.
5. Student A's individualized education program (IEP) describes Student A's special education services and placement as "full-time inclusion," specifies the amounts of other services (consultation, speech therapy, occupational therapy, and physical therapy), and identifies the persons responsible for

implementation of the IEP goals (special education teacher, general education teacher, paraprofessional, speech/language teacher, occupational therapist, and physical therapist).

6. Student B's IEP describes Student A's special education services and placement as "full-time inclusion," specifies the amounts of other services (speech therapy, occupational therapy, and physical therapy), and identifies the persons responsible for implementation of the IEP goals (special education teacher, general education teacher, paraprofessional, speech/language teacher, occupational therapist, and physical therapist).
7. Student A and Student B receive certain special education and related services in resource rooms. In addition, Student A's and Student B's Individual Health Care Plans (IHPs) require that certain personal care services be provided by paraprofessionals in the school nurse's office.
8. Neither Student A's IEP nor Student B's IEP expressly requires 1:1 paraprofessional services at all times. As a practical matter, however, paraprofessionals have been assigned to assist Student A and Student B throughout the school day.
9. The School acknowledges that it is unable to document Student A's location and Student B's location during each class period of each school day. The School further acknowledges that, given turnover in paraprofessional personnel, some paraprofessionals were not adequately informed that Student A and Student B were to be in their respective general education classrooms, except when receiving services in another location.
10. On November 4, 2003, the School conducted an inservice training session specifically regarding Student A and Student B. Their IEPs, IHPs, and daily schedules were reviewed with school personnel including the paraprofessionals assigned to work with Student A and Student B. The Complainant was a participant in the inservice training session.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate that, although there are some safe exits from the School, the School's emergency preparedness plans do not contain provisions for evacuating students in wheelchairs. Therefore, a violation of 511 IAC 7-21-5 occurred.
2. Findings of Fact #5, #6, #7, #8, and #9 indicate that Student A's and Student B's IEPs were not implemented as written, specifically, by removing the Students from their respective general education classrooms for longer periods of time than contemplated by their IEPs or IHPs. Therefore, a violation of 511 IAC 7-27-7(a) occurred. However, Finding of Fact #10 indicates that appropriate corrective action has been taken.

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

The Eastern School District of Greene County and the Orange-Lawrence-Jackson-Martin-Greene Joint Services shall review and revise the School's emergency preparedness plan to address procedures for warning and evacuating students whose disabilities require special warning or evacuation procedures. The review process shall include a request for an inspection by the Office of the State Building Commissioner or Office of the State Fire Marshall, or both.

Documentation of compliance shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by December 31, 2003.