

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2097.04
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	February 23, 2004
DATE OF REPORT:	March 18, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 20, 2004

COMPLAINT ISSUES:

Whether the Westview School Corporation and the Northeast Special Education Cooperative violated:

511 IAC 7-30-3(x) by failing to implement the Independent Hearing Officer's (IHO) orders in hearing #1321.02, specifically:

- a. failing to convene a case conference committee (CCC) meeting within ten days after receipt of the ordered evaluation results;
- b. Failing to "make any necessary changes" to the student's individualized education program (IEP);
- c. Failing to make specific changes on Academic and Communication goals per the independent evaluator's assessment; and
- d. Failing to make specific changes on the Accommodations page per the independent evaluator's assessment.

511 IAC 7-25-4(k) by failing to ensure that a copy of the student's evaluation report is made available at the school the student attends no less than five instructional days prior to the CCC meeting.

FINDINGS OF FACT:

- 1) The Student is eight years old and eligible for special education and related services as a student with a mild mental disability.
- 2) The School received the Independent Evaluator's report by fax on January 8, 2004. The School then communicated with the Case Conference Coordinator, the School Psychologist, the teachers, the O.I. teacher, and related service providers, the parents, and the Independent Evaluator in an effort to schedule a CCC meeting at the earliest, mutually agreed upon time, date, and location. Per the IHO's orders, the Independent Evaluator was to be invited to attend the CCC meeting in person or by telephone, with expenses to be paid by the School. The Orders state that reasonable delays with the scheduling of the Independent Evaluator are acceptable, if necessary. The Independent Evaluator's first available date was February 5, but that date was not convenient for the Parent according to the School. The next available dates were February 10, 11, and 12. All agreed on February 11, as the Independent Evaluator could attend the conference in person. The CCC notification was sent January 30, 2004, and the CCC meeting convened on February 11, 2004, at 2:30 p.m. at the School.
- 3) The majority of the CCC meeting involved review of each current goal sheet by the teachers and reports on progress that the Student had made to date on each goal. The teachers did not recommend making changes to the current goals. The CCC discussion led to the recommendation to revise the accommodations list in order to add: verbally cue, model, and visually prompt the Student during

academic and communication activities/lessons; and, do not expect the Student to complete activities/lessons independently as written on specific goal sheets. This revision is noted on the CCC notes of page four of the February 11, 2004, CCC meeting. The Independent Evaluator did not recommend any other changes in goals, objectives, or accommodations.

- 4) At the February 11, 2004, CCC meeting, the Independent Officer indicated the goals and objectives developed in the previous CCC meeting on October 17, 2003, were appropriate for the Student and would challenge her sufficiently. Additionally, the Independent Evaluator stated within his written response for clarification of recommendations dated February 13, 2003, that he did not view any of the goals discussed in the meeting as off target. He further stated that the goals in place are valid and appropriate, on par with the Student's current abilities, and at a level that will challenge her continued growth. Also, the Independent Evaluator stated that he did not necessarily offer specific recommendations, but made comments based on the progress reports from the various staff, to indicate that their activities with the Student were meeting her needs with regard to: the elimination of distractions; learning with visual aids rather than by trial and error; emphasizing modeling, and; utilizing routine.
- 5) The CCC discussion with regard to accommodations centered around the revision from the expectation of the Student to perform at an independent level to the level of the continuation of verbal cues, visual prompts, and modeling. Specifically the Parent wanted the revisions to the current goals to include "cueing" and "prompting." This revision to the accommodations list is noted on page four of the CCC notes from the February 11, 2004, CCC meeting: "All goals will be revised to include the statement 'to provide assistance/prompting/cueing as needed and not always expecting independence.'" The School asserts that no other recommendation was made by the staff, the parents, or the Independent Evaluator for specific changes to the current accommodations. Noted on page five of the CCC notes, written by the Parent, from the February 11, CCC meeting, the Parent states that the parents did see necessary changes in the IEP and thought the Orders stated that those changes would be made at the February 11, CCC meeting, but the School stated the changes would be made at the Annual Case Conference Review in April. The Case Conference Notification, dated January 30, 2004, stated the purpose of the CCC meeting on February 11, was to review the progress of the Student and to review the independent evaluation per the IHO's Orders.
- 6) The Complainant acknowledges that the School did provide reports to the parents five days prior to the CCC; however, the day of the CCC meeting the School presented the parents with a new set of reports dated February 11, 2004. The Independent Evaluator's report was the only evaluation report presented and reviewed at the February 11, 2004, CCC meeting. The report was sent by the Independent Evaluator's office after completion on January 6, 2004, and the Assistant Director obtained verbal confirmation by telephone from the Parent on January 23, 2004, that the parents received the report. Progress reports from the teachers and related services providers were provided to the parents during the CCC meeting.
- 7) The IHO stated in a letter to the Division of Exceptional Learners, dated February 25, 2004, that the School produced the required documents in response to the Orders. The documents include the report of the independent evaluation, case conference committee and progress reports, the current IEP, and accommodations for the general education classroom. He wrote that he has read these documents thoroughly and has concluded that the School has "fully met the conditions of the orders" and that he "considers this matter closed."

CONCLUSIONS:

- 1) Findings of Fact #2 indicates the School held a CCC meeting at the earliest, mutually agreed upon time, date, and location. Reasonable delays with regard to scheduling with the Independent Evaluator are acceptable, if necessary. Findings of Fact #3, #4, #5, and #7 indicate that the School did consider the results of the independent evaluation at the CCC meeting. The CCC report indicated that the results were discussed and revisions added to the CCC report, but there was still disagreement from the Complainant and parents regarding suggestions in the Independent Evaluator's report. A public agency need only consider the results. There is no obligation to incorporate any suggestions or recommendations from the independent evaluation. Therefore, no violation of 511 IAC 7-30-3(x) is found.
- 2) Findings of Fact #6 reflects that the Independent Evaluation report was received by the parents in accordance with 511 IAC 7-25-4(k). Therefore, no violation of 511 IAC 7-25-4(k) is found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.