

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2191.05
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	November 3, 2004
DATE OF REPORT:	December 3, 2004
REQUEST FOR RECONSIDERATION:	yes/not revised
DATE OF CLOSURE:	March 4, 2005

COMPLAINT ISSUES:

Whether the Hanover Community School Corporation and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-25-4(k) by failing to ensure that a copy of the student's initial educational evaluation was made available at the school the student attends no less than five instructional days prior to the scheduled case conference committee meeting.

511 IAC 7-25-4(a)(6) by failing to provide to the parent an explanation of how to obtain a copy of the report of the initial evaluation prior to the case conference committee (CCC) meeting and by failing to ask the parent if the parent wished to have a meeting with an individual who can explain the results of the evaluation prior to the CCC meeting.

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written report of the CCC meeting held on February 4, 2004.

511 IAC 7-25-4(b) by failing to conduct the initial educational evaluation and convene the CCC within 60 instructional days of the date the written parental consent was received by certified personnel.

511 IAC 7-27-3(f) by failing to include in a CCC meeting an individual invited by the parents.

511 IAC 7-27-4(c) by failing to utilize the CCC to develop, review, and revise the student's individualized education program, specifically:

- (a) by failing to consider social work services in schools, a related service under 511 IAC 7-28-1(n);
and
- (b) by making a decision outside the CCC regarding the parent's request for extended school year (ESY) services including social work services in schools.

FINDINGS OF FACT:

1. The Student has been identified as having a communication disorder and determined eligible for special education and related services.
2. The Student's case conference committee (CCC) was scheduled to convene on February 4, 2004, to discuss the Student's initial educational evaluation. Five days prior to that date was January 28, 2004. The CCC notes from February 4, 2004, indicate the Parent had "received a copy of the [Special Education Cooperative] report earlier and she asked that [School Psychologist] make a change." The

Parent indicated at the CCC meeting, as the notes state, that “[School Psychologist] had made the change on form 205-1 on the background information per her [the Parent] request.” This change was made when the Parent and the School Psychologist met on January 29, 2004, after the Parent had picked up a copy of the evaluation report on January 28, 2004.

3. On December 15, 2003, the Parent attended a Diagnostic Interview with the School Psychologist and others to discuss the Student’s initial educational evaluation. At that meeting, the Parent signed the Parent Permission for Special Education Evaluation form. The Parent was then provided a copy of the Notice of Procedural Safeguards and Parent Rights in Special Education. The second page of this document explains how parents can get a copy of the initial educational evaluation and have someone from the school explain the results before the CCC meeting. There is no documentation indicating that the School orally informed the Parent of the opportunity to request a meeting to discuss the evaluation results prior to the CCC meeting.
4. At the CCC meeting on February 4, 2004, it was agreed that the written case conference report would be sent to the Parent via certified mail. A certified mail receipt indicates the Parent received the written report on February 24, 2004, 20 days after the CCC meeting.
5. On September 11, 2003, the Student’s teacher received a letter from the Parent requesting a special education evaluation. The 60 instructional day timeline elapsed on December 10, 2003. On September 15, 2003, the Teacher completed the Request for Student Assistance Team-General Education Intervention (GEI) form. On September 18, 2003, the Parent and the Principal met with the GEI team. On this date, the Principal noted on the Parent’s letter requesting an evaluation that the GEI team discussion had been held. It states, “Strategies discussed for school and home. Will revisit request for testing at the end of the first grading period.” A GEI plan was developed at this meeting. The School acknowledges that there is no written statement from the Parent that either withdraws the request for evaluation or approves the delay in special education testing.
6. The Special Education Cooperative was informed of the Parent’s request for an educational evaluation on November 20, 2003. The 60th instructional day after November 20 was March 3, 2004. A diagnostic interview was held with the Parent, the Principal, the School Psychologist, and an educational diagnostician on December 15, 2003. The Parent signed the formal Parent Permission for Special Education Evaluation form at this meeting. A CCC meeting was scheduled for February 25, 2004. On December 19, 2003, the Special Education Director was contacted by the Complainant and the Parent. A multi-party phone conference was held to discuss the evaluation process. During this conference call, the Complainant indicated the Parent did not understand that testing was delayed during the GEI process. It was then agreed to complete the testing and convene the CCC by February 4, 2004.
7. The Complainant acknowledges that there has not been a time when anyone the Parent invited has been excluded from a CCC meeting.
8. Prior to the Student’s identification as a student with a disability, and while the CCC was continuing to meet to develop the IEP, the Student received services from the school social worker. At each of three CCC meetings, the CCC discussed the continuing role of the school social worker in connection with the Student’s difficulty in speaking and relating to others. Although school social work was not listed as a related service in the Student’s proposed individualized education program (IEP), the CCC Discussion Summary of April 19, 2004, documents that the School and the Parent agreed that the school social worker would continue to conduct two sessions weekly for the remainder of the school year and into the 2004-2005 school year. The Complainant does not allege that the social worker failed to provide the services agreed upon by the CCC.

9. The Student's need for extended school year (ESY) services was discussed at the CCC meeting on April 19, 2004. As the School did not find that the Student qualified for ESY generally, the School did not offer school social work services during the summer. The Parent made it clear that school social work services were not wanted unless the services were provided by the particular social worker who was providing services during the school year. This social worker was not scheduled to work for the School during the summer.
10. The CCC Discussion Summary of April 19, 2004, documents that the School stated that social work services are not part of the IEP and that the decision for social work services would not be made by the CCC, but the Parent was welcome to write a letter to the Superintendent regarding the issue. As of May 4, 2004, the Parent notified the School of agreement with the proposed IEP, with certain exceptions including the Parent's renewed request for ESY services. Although there were additional communications between School and Parent, the CCC had not reconvened as of June 3, 2004, when the School wrote a letter to the Parents stating, "Please note that this service [social work] is considered a general education intervention and is not part of the IEP."

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did ensure that a copy of the Student's initial educational evaluation was made available at the school the Student attends no less than five instructional days prior to the scheduled CCC meeting. Therefore, a violation of 511 IAC 7-25-4(k) is not found.
2. Finding of Fact #3 indicates that the Parent received the Notice of Procedural Safeguards that includes a statement regarding a parent's right to have someone from the school explain the results of the evaluation before the CCC meets. Finding of Fact #3 also indicates that the School failed to provide the Parent a verbal explanation of the opportunity to request a personal meeting to discuss the evaluation results prior to the CCC meeting. Therefore, a violation of 511 IAC 7-25-4(a)(6) is found.
3. Finding of Fact #4 indicates that the School failed to provide the Parent with a copy of the written CCC report within 10 business days after the date of the CCC meeting. However, the Parent did receive the report on February 24, 2004, via certified mail. Therefore, a violation of 511 IAC 7-27-5(c) is found.
4. Findings of Fact #5 and #6 indicate that the School failed to conduct the initial educational evaluation and convene the CCC within 60 instructional days of the date written parental consent was received by certified personnel. GEI shall not be a prerequisite to an educational evaluation (see 511 IAC 7-25-3(b)). Therefore, a violation of 511 IAC 7-25-4(b) is found. However, student specific corrective action was taken when the School expedited the evaluation process once the problem became understood.
5. Finding of Fact #7 indicates that the School did not fail to include in a CCC meeting an individual invited by the Parent. Therefore, a violation of 511 IAC 7-27-3(f) is not found.
6. Finding of Fact #8 indicates that the School did utilize the CCC meeting to consider social work services for the Student. Therefore, a violation of 511 IAC 7-27-4(c) is not found with regard to social work services during the school year. However, although Finding of Fact #9 indicates that the School correctly refused to utilize the CCC to make personnel decisions, Finding of Fact #10 indicates that the School failed to utilize the CCC to consider ESY services, as the School precluded consideration of social work services during the summer by failing to recognize that social work services may be a related service under 511 IAC 7-28-1(n) as well as a service available to all students under 511 IAC 4-1.5-5. Therefore, a violation of 511 IAC 7-27-4(c) is found with regard to ESY services including social work services.

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 Hanover Community School Corporation and the Northwest Indiana Special Education Cooperative shall:

1. Review, and if necessary revise, its procedures for conducting personal meetings and providing written and verbal information to parents when an initial educational evaluation has been requested to ensure that the procedures comply with the requirements of 511 IAC 7-25-4(a)(6). The School shall submit to the Division, no later than January 14, 2004, a copy of its procedures, including the format in which the written and verbal information will be provided to parents. The School shall also provide a written reminder to appropriate staff regarding these procedures and submit a copy of the written notice to the Division no later than January 14, 2005.
2. Submit a written memorandum specifically addressing the requirements of 511 IAC 7-27-5(c) and 511 IAC 7-25-4(b) to all relevant school personnel. A copy of the written memorandum and a list of all who receive it shall be sent to the Division no later than January 14, 2005.
3. Submit a written memorandum to all superintendents and principals regarding the fact that social work services may be a related service even if personnel implementing that service may be paid with general education funds and is available to all students and how this relates to the requirements of 511 IAC 7-27-4(c). A copy of the memorandum and an assurance statement from the Special Education Director indicating that it has been disseminated shall be sent to the Division no later than January 14, 2005.