

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-308-2008
COMPLAINT INVESTIGATOR:	Bobbie Ritz
DATE OF COMPLAINT:	December 10, 2007
DATE OF REPORT:	February 8, 2008
REQUEST FOR RECONSIDERATION:	No
DATE OF CLOSURE:	March 27, 2008

COMPLAINT ISSUES:

Whether the Franklin Community School Corporation and the Special Services, Johnson County Schools violated:

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

- (a) conduct verbal assessments;
- (b) check for understanding;
- (c) provide 60 to 90 minutes of special education in the general education classroom per day;
- (d) 30 to 60 minutes of special education per day in a small group setting;
- (e) monthly physical therapy consultation services;
- (f) speech consultation four times per year; and
- (g) provide testing accommodations.

On January 8, 2008, an extension of time was granted until February 8, 2008, due to school personnel being unavailable to interview during winter break.

FINDINGS OF FACT:

1. The Student, eleven years old, is identified as a student with an orthopedic impairment and a communication disorder, and has been determined eligible for special education and related services.
2. A case conference committee (CCC) meeting was held February 28, 2007, to develop, review, and revise the student's Individual Education Program (IEP) with the Complainant signing in agreement with the recommended services and permission for the plan to be implemented.
3. The Student's IEP dated February 28, 2007, indicated the Student will receive the following accommodations/modifications necessary to access the general education curriculum and achieve goals: "verbal assessment for long written assignments or when scoring below 76%, after first attempt, in general education or resource in all subjects."
4. The Complainant alleges verbal assessments when the Student scores below 76% are not occurring consistently or in all subjects. The School provided copies of calendar pages documenting testing accommodations when the Student was provided the opportunity to orally respell incorrect spelling words on eighteen dates from September-December 2007. The School provided no documentation with respect to how and when this accommodation was implemented in all subjects as required by the IEP.

5. The Student's IEP dated February 28, 2007, indicated the Student will receive the following accommodations/modifications necessary to access the general education curriculum and achieve goals:
"test read aloud/verbally check for understanding during the testing window of the ISTEP, in general education or resource in all subjects."
6. The Complainant alleges all tests are not being read aloud in all subjects. The School provided copies of calendar pages documenting testing accommodations when the Student was provided the opportunity to orally respell incorrect spelling words on eighteen dates from September-December 2007. The School provided no documentation with respect to how and when this accommodation was implemented in all subjects as required by the IEP.
7. The Student's IEP dated February 28, 2007, indicated the Student will receive the following special education, related services, and supplementary aids and services needed: "inclusion, 60-90 minutes daily in the general education setting in all subjects."
8. The Complainant alleges that although the School has improved at having the Student in the general education classroom for 60-90 minutes daily, this was not occurring at the beginning of the school year. The School provided copies of calendar pages documenting the amount of time the Student was in the general education classroom. The first day of school was August 15, 2007 with the 60-90 minutes daily in the general education classroom occurring regularly from October 1, 2007. The copies of calendar pages did not document the Student in the general education classroom for 60-90 minutes daily from August 15-September 28, 2007.
9. The Student's IEP dated February 28, 2007, indicated the Student will receive the following special education, related services, and supplementary aids and services needed: "small group, 30-60 minutes daily in either setting in all subjects."
10. The School provided copies of calendar pages documenting the Student working in a small group daily from October 2-December 21, 2007. The copies of calendar pages from August 15-October 1, 2007, do not document the Student working in a small group daily. The School failed to provide documentation regarding the number of minutes daily the Student worked in a small group.
11. The Student's IEP dated February 28, 2007, indicated the Student will receive the following special education, related services, and supplementary aids and services: "PT consult services, monthly consultation, in reading, spelling, and English."
12. The Complainant alleges that she has not been made aware of any physical therapy consultation services being provided to the Student. The School provided Daily OT/PT Progress Notes with dates the Student has been observed, notes regarding progress/concerns, and notes of the therapist consulting with teachers and the Complainant.
13. The Student's IEP dated February 28, 2007, indicated the Student will receive the following special education, related services, and supplementary aids and services: "Speech consultation, four times per year, in Language (Speech Therapy)."
14. The Complainant alleges that she has not been made aware of any speech therapy consultation services being provided to the Student. The School provided copies of calendar pages marking the dates when the speech consultations occurred in August, October, and December 2007. The School failed to provide consultation notes specific to the Student.
15. The Student's IEP dated February 28, 2007, indicated the Student will "use cues or prompts,

manipulatives and calculator, during the testing window of the ISTEP, in general education or resource in all subjects.”

16. The School provided no documentation with respect to how and when this accommodation was implemented in all subjects as required by the IEP.

CONCLUSIONS:

1. Findings of Fact #3 through #16 address whether the Student’s IEP was implemented as written.
 - a. Findings of Fact #3 and #4 indicate the School failed to provide documentation with respect to providing verbal assessments in all subject areas for long written assignments for the Student or when the Student scores below 76%. Therefore, a violation of 511 IAC 7-27-7(a) is found.
 - b. Findings of Fact #5 and #6 indicate the School failed to provide documentation with respect to having tests read aloud for the Student and verbally checking for understanding in all subject areas. Therefore, a violation of 511 IAC 7-27-7(a) is found.
 - c. Findings of Fact #7 and #8 indicate 60-90 minutes daily of inclusion for the Student in the general education setting was not occurring until October 1, 2007. Therefore, a violation of 511 IAC 7-27-7(a) is found.
 - d. Findings of Fact #9 and #10 indicate that although the Student did become involved in daily small group work on October 2, 2007, the School failed to provide documentation of the amount of time the Student spent daily working in a small group. Therefore, a violation of 511 IAC 7-27-7(a) is found.
 - e. Findings of Fact #11 and #12 indicate the Student received monthly consultation services. Although the Complainant has requested to be included in the consultation, the IEP is silent as to requiring the Complainant’s involvement. Therefore, a violation of 511 IAC 7-27-7(a) is not found.
 - f. Findings of Fact #13 and #14 indicate the School failed to provide documentation of speech therapy specific to the Student. Therefore, a violation of 511 IAC 7-27-7(a) is found. Although the Complainant has requested to be included in the consultation, the IEP is silent as to requiring the Complainant’s involvement.
 - g. Findings of Fact #15 and #16 indicate the School provided no documentation with respect to how and when cues and prompts were used for the Student, as well as manipulatives and a calculator, in all subjects as required by the IEP. Therefore, a violation of 511 IAC 7-27-7(a) 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 Franklin Community School Corporation and the Special Services, Johnson County Schools shall:

Convene a meeting with the appropriate school personnel to develop a system (e.g., chart or log book) for documenting the implementation of the appropriate modifications/accommodations/adaptations of classroom assignments. The School shall provide a copy of the documentation system along with an explanation as to how it will be utilized, copy of the meeting minutes, and a list of the participants with signatures confirming attendance and identified by name and title **no later than March 7, 2008.**

Convene the case conference committee to determine the exact amount of compensatory speech

consult services the Student is owed, and how that time will be made up. A copy of the Case Conference Report and revised IEP shall be submitted to the Division **no later than March 7, 2008.**