

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1575.00
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	May 17, 2000
DATE OF REPORT:	June 30, 2000
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 8, 2000

COMPLAINT ISSUES:

Whether the Monroe County Community School Corporation violated:

511 IAC 7-6-2(e) with regard to the school's alleged failure to provide paraprofessionals with pre-service and in-service training necessary to provide services to the student.

511 IAC 7-6-5(d) and (f) with regard to the school's alleged failure to provide augmentative or assistive technology devices for the student on a consistent basis and the alleged failure to maintain the device in working order.

511 IAC 7-12-3 with regard to the school's alleged failure to conduct a case conference committee meeting at least every sixty instructional days since the fall of 1998 when the student was placed on homebound instruction.

511 IAC 7-12-4(e) with regard to the school's alleged failure to ensure that homebound instruction provided to a student with a disability is provided by a teacher licensed in the student's disability area.

511 IAC 7-15-2 with regard to the school's alleged failure to comply with procedures for expelling a student with a disability.

During the course of the investigation, additional issues were found:

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide occupational therapy (OT) consultation services;
- b. failing to provide speech therapy consultation services one time per month; and
- c. failing to provide assistive technology devices or services.

511 IAC 7-12-1(k)(4) with regard to the school's alleged failure to indicate on the student's IEP the frequency of the OT consultation services.

The complaint report was originally due on June 16, 2000. However, due to the complexity of the original issues and the identification of additional issues, additional time was needed and approved by the state director of special education extending the deadline until June 30, 2000.

FINDINGS OF FACT:

1. The Student is eighteen years old and at the time of the complaint, had been placed in a residential setting (for other than educational reasons). The Student left the residential placement during the course of the investigation. The Student is eligible for special education and related services as a student with autism and a communication disorder.
2. At a case conference committee ("CCC") meeting held on October 12, 1998, at the parent's request, it was decided that the Student should be in an alternative services program. Under an alternative services program, the Student would receive services to develop functional and daily living skills as opposed to academic instruction. The CCC determined homebound instruction to be the least restrictive environment for the Student.
3. The Student's IEPs from October 12, 1998, March 30, 1999, and January 25, 2000 state that the Student is to receive six hours of homebound instruction each day. Instruction was to be provided by an instructional assistant, trained by the residential facility and school staff (primarily by the teacher of record) to implement specific goals, concentrating on appropriate behavior across environments. The school and the residential provider agreed that the Student's needs would be better met through an arrangement that would provide a stronger linkage and better consistency between the residential provider and personnel from the local school (the "school"). From November 18, 1998 until June 1, 2000 the local special education district had a contract with the residential provider that specified the roles each respective party would be responsible for carrying out.
4. From November, 1998 through June, 2000, the Student participated in an alternative curriculum specified by his IEP's goals, objectives, and behavior plan. The annual IEP goals include personal management, functional academics, recreation, and vocational activities. Residential staff provided the day-to-day homebound instruction for the student to meet the short-term objectives and annual goals. The residential staff were trained and monitored on their implementation of the student's IEP by the Student's teacher of record ("TOR") and the director of supported living at the residential facility.
5. The Student's IEPs from October 1998, March 1999, and January 2000, all state that the Student is to receive OT consultation. None of the IEPs state the frequency with which this is to occur. Although the occupational therapist met with the residential staff, there is no documentation of how frequently this occurred. These IEPs also state that the Student will receive speech therapy consultation once a month. The school provided no documentation to establish that speech therapy consultation occurred on a monthly basis.
6. Documentation indicates that the Student's TOR developed a curriculum, dictated a schedule, and addressed the goals outlined in the Student's IEP. The residential facility provided initial and on-going training and supervision to the therapeutic paraprofessional and ensured completion of all necessary documentation. Documentation indicates several monthly and weekly informal meetings taking place between school personnel and staff from the residential facility. The notes from these meetings indicate that the activities the Student was engaged in were reviewed. The TOR also met the paraprofessional in the community at various sites to provide supervision and demonstrate strategies, activities and interventions in a variety of settings. However, neither the TOR nor any other licensed teacher provided direct instruction to the Student on a daily basis.
7. In October 1998, the Student's IEP indicated that he was to be considered for assistive technology (AT). It further stated that ongoing consideration and assessment of a variety of communication strategies is required. There is no documentation that an AT evaluation was conducted, and no specific AT device or service is identified in the IEP. However, during the fall of 1998, an inexpensive, child's talking book was given to the Student to use at home and in the community to help the Student with making choices. It was unsuccessful despite alterations made by the TOR

and the speech language pathologist. The Student destroyed the device, and due to its ineffectiveness, it was not replaced.

8. The IEPs written in March 1999 and January 2000 state, under the heading of "Special Factors," that the Student requires AT devices or services but does not need to be considered for an AT evaluation. Neither of these IEPs specifies any AT device or service for the Student. No AT device or service was provided to the Student.
9. Documentation indicates that between October 12, 1998 and June 1, 2000 the school has convened the CCC four times: March 30 and August 31, 1999 and January 25 and April 5, 2000. More than sixty instructional days elapsed between October 12, 1998 through March 30, 1999 and August 31, 1999 through January 25, 2000.
10. The possibility of expulsion was discussed at a CCC meeting in the fall of 1998, but that option was not pursued. Behavior logs indicate that, from September 4 through 29, 1998, the Student was exhibiting aggressive behavior and was injuring students and adults on nearly a daily basis. A CCC meeting was convened on September 21, 1998 to discuss the Student's behavior. A particular incident on September 29, 1998 prompted a CCC meeting convened on October 12, 1998. At that meeting it was decided to place the Student in an alternative services program. The Student was not expelled from school.

CONCLUSIONS:

1. Findings of Fact #3 and #4 reflect that paraprofessionals at the residential facility were trained and monitored to implement certain aspects of the Student's IEP. No violation of 511 IAC 7-6-2 (e) is found.
2. Findings of Fact #7 and #8 indicate that, beginning in October 1999, the Student was to be considered for AT. Subsequent IEPs stated that the Student required AT devices or services. Although an AT device was utilized in the fall of 1998, its use was discontinued for lack of effectiveness. No AT evaluation was done to determine an appropriate AT device or service for the Student, despite the CCC recognition that the Student required an AT device or service. Therefore, a violation of 511 IAC 7-6-5(d) is found; no violation is found with respect to 511 IAC 7-6-5(f).
3. Findings of Fact #2 and #9 indicate that the school failed to conduct a CCC meeting at least every sixty instructional days from the date the Student was placed on homebound instruction. Therefore, a violation of 511 IAC 7-12-3 is found.
4. Findings of Fact #4 and #6 indicate that the Student had annual goals in the areas of personal management, functional academics, recreation, and vocational activities. Homebound instruction was provided by paraprofessionals employed by the residential provider. The Student's TOR trained and monitored the paraprofessional's implementation of the IEP, but did not provide direct instruction or services. Therefore, a violation of 511 IAC 7-12-4(e) is found.
5. Finding of Fact #10 reflects that the Student was not expelled. The decision to remove the Student from the school was appropriately made based on the recommendation of the CCC meeting. No violation of 511 IAC 7-15-2 is found.
6. Findings of Fact #5, #6, #7, and #8 indicate that the Student was to receive OT consultation (frequency not stated), speech therapy consultation one time per month, and AT devices or services. There is no documentation of OT consultation or monthly speech therapy consultation. The Student was not provided with an AT device or service.

subsequent to the fall of 1998. The Student's IEP was not implemented as written. Therefore, a violation of 511 IAC 7-12-1 is found.

7. Finding of Fact #5 indicates that the IEPs from October 1998, March 1999, and January 2000 all state that the Student is to receive OT consultation. However, none of the IEPs state the frequency with which the OT consultation is to occur. Therefore, a violation of 511 IAC 7-12-1(k) is found.

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

CORRECTIVE ACTION:**

The Monroe County Community School Corporation shall:

1. In-service all appropriate staff on the following issues:
 - a. the requirements for determining a student's need for an assistive technology evaluation or the provision of assistive technology devices and services (511 IAC 7-17-5 and 6; 511 IAC 7-21-6);
 - b. the requirement to convene a CCC at least every 60 instructional days (511 IAC 7-27-10); and
 - c. the requirement to include length and frequency of services in the IEP (511 IAC 7-27-(a)(5)).
 - d. the requirement that homebound instruction to a student with a disability must be provided by appropriately licensed personnel (511 IAC 7-12-11(e))

Documentation, including the inservice agenda, written materials, and a list of staff attending (by name and title) shall be submitted to the Division no later than September 8, 2000.

**Because the Student has subsequently moved out of the school corporation's jurisdiction and the school corporation is no longer responsible for providing services to the Student, no corrective action is being ordered specific to the Student.

DATE REPORT COMPLETED: June 30, 2000