

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1582.00</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Jane Taylor-Holmes</b>
<b>DATE OF COMPLAINT:</b>	<b>May 30, 2000</b>
<b>DATE OF REPORT:</b>	<b>July 6, 2000</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>no</b>
<b>DATE OF CLOSURE:</b>	<b>August 30, 2000</b>

**COMPLAINT ISSUES:**

Whether the Monroe County Community School Corporation violated:

34 CFR 300.504(a) with regard to the school's alleged failure to provide the parent with a notice of procedural safeguards upon notification of a case conference committee meeting and upon receipt of a request for a due process hearing;

511 IAC 7-12-1(g) with regard to the school's alleged failure to convene the case conference committee when a change of placement is being considered or proposed;

511 IAC 7-12-1(n) and (p) with regard to the school's alleged failure to provide the parent with written notice of the proposed change in placement and notice of procedural safeguards and alleged failure to obtain parental consent prior to changing the student's placement;

511 IAC 7-4-4 with regard to the school's alleged failure to make available special education and related services to a student with a disability enrolled in a private school;

34 CFR 300.534(c) with regard to the school's alleged failure to conduct an evaluation before determining the student is no longer eligible for special education;

511 IAC 7-10-3 with regard to the school's alleged failure to conduct additional evaluations upon the parent's request;

34 CFR 300.503(a) with regard to the school's alleged failure to provide the parent with written notice when the school refused to initiate or change the identification or evaluation of the student;

511 IAC 7-12-1(j) with regard to the school's alleged failure to ensure the case conference committee utilized the criteria in 511 IAC 7-11 for determining the student's eligibility for special education;

511 IAC 7-12-1(k)(2) with regard to the school's alleged failure to ensure the case conference committee developed annual goals and objectives as part of the student's individualized education program (the "IEP");

511 IAC 7-12-1(l) with regard to the school's alleged failure to ensure that the IEP for the student is no more than 12 months old; and

511 IAC 7-12-1(e) with regard to the school's alleged failure to include in the case conference

committee a representative of the school authorized to commit school resources.

#### **FINDINGS OF FACT:**

1. The student (the "Student") is seven years old and completed the first grade at the Private School during the 1999-2000 school year. The Student attended public school during the 1998-1999 school year. The Student is eligible for special education and related services as a student with a communication disorder ("CD").
2. In a letter dated March 24, 1997, to the Preschool Coordinator, the Complainant stated that she believed the Student's needs were "beyond a simple communication delay." The Complainant requested that the local school corporation (the "School Corporation") conduct a re-evaluation of the Student for a suspected disability of autism with attention deficit hyperactivity disorder symptoms, based upon the results of an independent evaluation the Complainant had pursued.
3. The following evaluations were conducted as a result of the Complainant's request for a re-evaluation:
  - Stanford-Binet IV which measures the following skills: verbal; abstract/visual; and quantitative reasoning; short-term memory; and composite.
  - Bracken Basic Concept Scale which measures the following skills; school readiness composite; direction/position; social/emotional; size; texture/material; quantity; and time/sequence.
  - Developmental Test of Visual-Motor Integration-Revised.
  - Scales of Independent Behavior-Revised Full Scale which measures the following skills: motor; social interpersonal/communication; personal living; community living; and broad independence.
  - Social Skills Rating Scale Preschool Version which measures social skills and problem behaviors.
  - Behavior Assessment System for Children which measures the following problems; hyperactivity; aggression; anxiety; depression; somatization; atypicality; withdrawal; attention; adaptability; and social skills.
  - Childhood Autism Rating Scale and the Gilliam Autism Rating Scale.

The Psychologist conducted the evaluations and classroom observations on April 9, 14, and 15, 1997. The Complainant and the classroom teacher completed behavior and developmental rating scales on or about May 7, 1997. The SLP assessed the Student on February 27, 1997, and March 25, 1997.
4. The CCC met on May 16, 1997 for the Student's annual case review (the "ACR") and to discuss the results of the evaluations described in Finding of Fact #3, along with revising the *IEP* for the 1997-98 school year. Based upon the results of the evaluations, the CCC determined that the Student was ineligible for services as a student with autism; however, the Student continued to be eligible for services as a student with a CD. The *Case Conference/Annual Case Review Report* from this meeting states, "After lengthy discussion and the disparity between the reports from home and school, as well as possible placement options, the coordinator recommended to continue the conference at a later date. The purpose of the next meeting is to determine the goals and objectives and the least restrictive environment."
5. A CCC meeting was held on or about February 11, 1998 to discuss the Student's current special education program. The Student continued to be eligible for special education services as a Student with a CD. Direct Speech services were to continue to be integrated in the classroom setting. Goals and objectives in the areas of self-care/independence, cognition, social behavior, and Speech were written for the Student at this meeting.

6. In a letter dated February 11, 1998, the Complainant stated that the evaluations conducted in March, April, and May 1997 were flawed; and therefore, requested that the School Corporation complete a new evaluation. The Complainant not only continued to suspect the Student had autism, but also suspected a learning disability.
7. The following evaluations were conducted as a result of the Complainant's February 11, 1998 request that the Student be re-evaluated:
  - Wechsler Preschool and Primary Scale of Intelligence-Revised which measures verbal, performance, and full scale intelligence quotients.
  - Matrix Analogies Test-Expanded Form which measures non-verbal reasoning skills.
  - Woodcock-Johnson Tests of Achievement-Revised which measures basic school readiness skills, i.e. letter-word identification, applied problems, dictation, and skills.
  - Scales of Adaptive Behavior-Revised which measures independent functioning with motor skills, social, interaction and communication skills, community living skills, and personal living skills.
  - Gilliam Autism Rating Scale which measures stereotypical behaviors, communication, social interaction, developmental data, and an autism quotient.
  - Miller Assessment for Preschoolers which measures strengths and weaknesses in sensory and motor function, cognitive performance (both verbal and non-verbal), and the completion of complex tasks requiring a combination of sensory, motor, and cognitive skills.

The psychologist conducted the evaluations and classroom observations on May 5, 6, and 8, 1998. The Complainant and the classroom teacher completed the Gilliam Autism Rating Scale. A physical therapy evaluation was completed in April 1998. A social history was completed on May 27, 1998. An occupational therapy evaluation was completed on May 22 and 29, 1998. A progress report of the Student's independent adaptive physical education services was written on March 23, 1998. The SLP assessed the Student on February 10, 1998; April 18, 1998; and May 22, 1998.
8. The CCC met on June 1, 1998, for the Student's annual case review (the "ACR") and to discuss the results of the evaluations indicated in Finding of Fact #6, along with writing the *IEP* for the 1998-99 school year. The CCC completed an autism checklist during the meeting. The School and the Complainant noted differences with their respective checklist results of the suspicion of autism. As a result the CCC determined that the Student would receive special education services in the area of autism in a diagnostic teaching evaluation placement, and continue to be eligible for special education services as a Student with a CD during the first semester of the 1998-99 school year. Consultation services by the special education teacher were recommended to monitor the goals and objectives with the kindergarten teacher and special area teachers as needed. Direct Speech was recommended and was to be integrated into the classroom curriculum. An independent review of the current evaluation results and classroom observations of the Student by an independent psychologist was also recommended. An independent audiology evaluation was scheduled for June 5, 1998, and a re-evaluation by an independent SLP was scheduled for June 4, 1998. A *Case Conference/Annual Case Review Report* was written as a result of this meeting. Goals and objectives were written for the Student in the areas of self-care/independence, social interaction, and communication. No written permission for placement was found in the *CCC Report*.
9. A meeting between the Complainant, the Director, and the Preschool Coordinator occurred on July 14, 1998. In a letter dated July 20, 1998, to the Complainant, the Director reiterated that the issue of autism would be reconsidered at a CCC meeting during the first two weeks of December 1998, as was discussed at the July 14, 1998 meeting. This was not a CCC meeting.
10. In a letter dated August 28, 1998, to the Director, the Complainant requested that the Student receive an independent Speech evaluation, an independent physical therapy evaluation, and an independent educational evaluation for a suspected disability of autism. In a second letter also

dated August 28, 1998, to the Director, the Complainant requested that the School conduct an assistive technology evaluation.

11. There is no indication that a CCC meeting was held during the first two weeks of December 1998, as specified would occur in the Director's letter dated July 20, 1998.
12. The CCC met on January 7, 1999, and reconvened on January 15, 1999. The *CCC Summary/IEP* indicates that the Student was in a diagnostic placement for autism and was to receive direct /integrated Speech in the classroom. The following evaluation information was discussed at the CCC meeting.
  - an independent speech/language evaluation conducted in October 1998;
  - an independent physical therapy evaluation conducted in October 1998;
  - an occupational therapy evaluation, date unknown;
  - a speech/language progress report presented by the SLP;
  - a review of the School's educational evaluation; and
  - two independent psychologists' reports that were written after reviewing the above-mentioned evaluation reports.The CCC also completed the autism checklist during the meeting. The CCC determined that the Student was ineligible for services as a student with autism, but that he continued to be eligible for services as a student with a CD. The *CCC Summary/IEP* states that because of a lack of time the meeting ended without the *IEP* being completed, and the Complainant was unable to give a time to reconvene. When the Complainant was contacted on January 21, 1999, she indicated that she did not want to reconvene to write the CD goals and objectives.
13. The Director sent a copy of an *IEP* with an attached letter dated January 29, 1999, to the Complainant informing her that the SLP completed the goals and objectives for the Student. The Director requested that the parent permission for special education services form be completed by either accepting or rejecting the proposed services and then returning it to the Director.
14. The Complainant refused to sign permission for the *IEP* to be implemented. The *IEP* indicates that Student was to receive both direct and integrated Speech services. The SLP reported that she provided services to the Student.
15. The Complainant and the School participated in mediation on February 5, 1999, with respect to the appropriate program for the Student. According to documentation maintained by the Division, a mediation agreement was reached. Attempts were made by the Principal on February 9, 11, 16, 17, and 25, 1999, to schedule a CCC meeting. On February 26, 1999, the Complainant filed for a due process hearing regarding the appropriate placement for the Student. In a letter dated May 21, 1999, the Principal notified the Complainant of a CCC meeting to discuss the results of a recent independent neuropsychological evaluation, to determine eligibility for special education, and to determine appropriate programming.
16. The CCC met on May 26, 1999. The *CCC Summary/IEP* indicates that the Student was eligible for special education and related services as a student with a CD. There were no goals and objectives contained in this *IEP*. The last page of this *IEP* contains the area for the parent to give written permission for special education, and has a handwritten note stating, "Parents do not wish to sign."
17. On June 1, 1999, the independent hearing officer entered an order dismissing the hearing because the Complainant wished to withdraw the request for a due process hearing.
18. In a letter dated August 19, 1999, the Complainant notified the new principal of the School that the Student had been enrolled in a Private School for the 1999-2000 school year. The Complainant also

stated that it was expected that the local school corporation make the necessary arrangements to ensure that the Student's needs be met while attending the Private School.

19. The Inclusion Coordinator attempted to schedule a CCC meeting with the Complainant on August 25 and 30, 1999. A CCC notification letter dated September 13, 1999, was sent to the Complainant for an anticipated meeting on October 1, 1999. A second CCC notification letter dated September 23, 1999, was sent with a rescheduled date of October 8, 1999 for the meeting.
20. The Complainant contends that at the October 8, 1999 CCC meeting, the CCC proposed that the Student was ineligible for special education and related services; although at the May 26, 1999 CCC meeting, the Student was eligible for said services based on the most recent education evaluations. The Complainant further contends that no evaluation has been conducted, and no further evaluation has been proposed.
21. The *CCC Summary/IEP* dated October 8, 1999 indicates that the Student continued to be eligible for special education and related services as a student with a CD. This *IEP* states under services recommended that "support will be in the form of monthly consultation with his teacher at the [Private School] to monitor speech progress. Consultation will be provided by the speech/language therapist and special education teacher." There were no goals and objectives contained in this *IEP*, and it did not include the page with the area for the parent to give written permission for special education.
22. Both the SLP and Inclusion Coordinator provided their respective telephone logs indicating monthly contact they had with the Private Teacher from the Private School beginning November 1, 1999. Neither the SLP or the Inclusion Coordinator had contact with the Private Teacher in April 2000.
23. With respect to the lack of goals and objectives in the October 8, 1999 *IEP*, the Director reported the following on page one in his letter of response. "The *IEP* was never completed, parents refused to come in to discuss or develop goals and objectives."
24. The Director also reported the following on page three in his letter of response. "At the case conference in October 1999, it was determined that [Student] needed no goals, other than what all students in a general education program would need. He was performing at grade level and no specific goals were necessary." The Director further reported, "It is my understanding that if a student is functioning at grade level and can accomplish the general education curriculum, that academic goals and objectives are not necessary." He concluded, "Since a language problem had been [Student's] area of disability and no problems were in evidence in October, consultation and monitoring of progress were felt to be appropriate."
25. The CCC met on May 24, 2000, and the Student continued to be eligible for special education and related services as a student with a CD. The *CCC Summary/IEP* states, "Committee recommends a daily general education program in an inclusion classroom with special education support. This support will be a combination of modifications (as noted on p.7) and weekly consultation. This consultation model is teacher-to-teacher to monitor his speech and ADHD issues as he transitions to a new school from his smaller, private school setting." The *IEP* also states, "Committee recommends speech and language eval for Fall 2000 by the end of 1<sup>st</sup> 9 weeks, based on committee members recommending dismissal from speech and lang. services." There are no goals and objectives contained in this *IEP*, nor does it include a parent permission for special education page.
26. The following individuals attended the May 24, 2000 CCC meeting:
  - The chairperson who is the Inclusion Coordinator.
  - The Complainant.
  - The Student's Private Teacher.

The director of the Private School.  
The School Corporation psychologist.  
The SLP.

27. The Director reported that the Inclusion Coordinator, signed as the chairperson on the CCC *Summary/IEP* dated May 24, 2000, has the authority to commit public agency resources.
28. The Complainant contends that since February 1999, she has received only two notices of procedural safeguards (the "Safeguards"); one in October 1999 at a case conference committee (the "CCC") meeting, and one at a May 25, 2000 CCC meeting. There have been three separate CCC meetings, three letters of notification of CCC meetings, a request for a due process hearing, and two written reports sent by mail following CCC meetings; all without benefit of receiving a copy of Safeguards. Most recently, a letter dated May 15, 2000, notifying the Complainant of a CCC meeting did not include a copy of Safeguards.
29. The Director reported the following with respect to providing the Complainant with a copy of Safeguards, "It is difficult to produce firm evidence that these were provided. I am almost certain that at the time of the due process request, procedural safeguards were not sent to the parents as a result of their hearing request." The Director further reported that although the local school corporation's CCC meeting procedures (the "Procedures") call for Safeguards to be sent, he was unable to produce evidence that Safeguards were included with the CCC meeting notifications.
30. The Procedures do address the school's requirement to initiate a due process hearing if there is a CCC disagreement; however, no mention is made with respect to the school's requirement to provide the parent a copy of Safeguards when a due process hearing is requested, regardless of which party initiates such.

#### **CONCLUSIONS:**

1. Findings of Fact #28, #29, and #30 indicate that the Complainant did not receive a copy of Safeguards at three CCC meetings, upon receiving three notifications of CCC meetings, when filing for a due process hearing, or upon receipt of two written reports of CCC meetings in the mail. A violation of 34 CFR 300.504(a) occurred.
2. Findings of Fact #12 and #14 indicate that the Student was to receive direct and integrated Speech services, and that this decision was made at the CCC meetings held on January 7 and 15, 1999. Finding of Fact #21 indicates that the direct and integrated Speech services were subsequently reduced to consultation during the October 8, 1999 CCC meeting. No violation of 511 IAC 7-12-1(g) occurred.
3. Findings of Fact #14 and #21 indicate that at the October 8, 1999 CCC meeting a change of placement occurred with respect to a decrease in Speech services provided to the Student; however, the Complainant did not give written consent for the change of placement. Finding of Fact #28 indicates that the Complainant did receive a copy of Safeguards at the October 8, 1999 CCC meeting when the change of placement occurred. No violation of 511 IAC 7-12-1(n) occurred. A violation of 511 IAC 7-12-1(p) occurred.
4. Findings of Fact #18, #19, #20, #21, and #22 indicate that consultation Speech was provided, as indicated in the October 8, 1999 CCC *Summary/IEP*. No violation of 511 IAC 7-4-4 occurred.
5. Findings of Fact #20 and #21 indicate that the CCC did not find the Student ineligible for special education and related services. No violation of 34 CFR 300.534(c) occurred.

6. Findings of Fact #2, #3, #6, #7, #10, and #12 indicate that evaluations were conducted when the Complainant requested such. No violation of 511 IAC 7-10-3 occurred.
7. Findings of Fact #4, #5, #8, #12, #13, #16, #21, and #25 indicate when the CCC meetings were held and that the School did not refuse to initiate or change the identification of the Student. No violation of 34 CFR 300.503(a) occurred.
8. Findings of Fact #3, #7 and #12 indicate that the CCC was provided with the results of the required evaluations as requested by the Complainant due to her suspicions of a suspected disability of autism and a learning disability. No violation of 511 IAC 7-12-1(j) occurred.
9. Findings of Fact #4, #5, #8, #16, #21, #23, #24, and #25 indicate that IEPs were written without including any goals and objectives. A violation of 511 IAC 7-12-1(k)(2) occurred.
10. Findings of Fact #4 and #8 indicate that the Student's IEP was more than 12 months old. A violation of 511 IAC 7-12-1(l) occurred.
11. Findings of Fact #26 and #27 indicate that the May 24, 2000 CCC meeting included a representative with the authority to commit public agency resources. No violation of 511 IAC 7-12-1(e) occurred.

**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. review and revise the Procedures to include the School Corporation's requirement to provide parents a copy of the Notice of Procedural Safeguards in all circumstances described in 511 IAC 7-22-1(d). Submit a statement assuring that parents will receive a copy of Safeguards as required in 511 IAC 7-22-1(d). A copy of the revised Procedures and the assurance statement shall be submitted to the Division no later than September 1, 2000.
2. conduct an inservice training with all case conference committee personnel regarding the requirement to include goals and objectives in all student *IEPs*. Reconvene the Student's CCC meeting prior to the beginning of the 2000-01 school year and establish goals and objectives for the upcoming school year. A copy of the inservice training agenda, a list of participants by signature and title, along with a copy of a revised *CCC Summary* and *IEP* shall be submitted to the Division no later than September 1, 2000.
3. submit a statement assuring that no student currently has an *IEP* in effect that is more than 12 months old. A copy of the assurance statement shall be submitted to the Division no later than September 1, 2000.

DATE REPORT COMPLETED: July 5, 2000