

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1590.00
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	June 26, 2000
DATE OF REPORT:	July 24, 2000
REQUEST FOR RECONSIDERATION:	yes (reconsideration was declined as untimely)
DATE OF CLOSURE:	December 7, 2000

COMPLAINT ISSUES:

Whether the Switzerland County School Corporation and the Madison Area Educational Special Services Unit violated:

511 IAC 7-6-6(e) with regard to the school's alleged failure to include in the student's educational records a written student specific justification for the student's transit time exceeding that of nondisabled students of comparable age in the resident school corporation;

511 IAC 7-6-2(e) with regard to the school's alleged failure to provide in-service training to the bus driver and the paraprofessional regarding the student's medical needs and how to attend to those needs in the event of an emergency;

511 IAC 7-12-2 with regard to the school's alleged failure to make available to a student with a disability;

- a. the variety of educational programs and services available to nondisabled students; and
- b. equal opportunity to participate in non-academic and extracurricular services and activities;

511 IAC 7-12-1(k)(11) with regard to the school's alleged failure to document on the student's *individualized education program* (the "IEP") whether the case conference committee considered the student's need for extended school year services;

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *IEP* as written, specifically, failing to provide extended school year services as agreed upon;

511 IAC 7-6-3 with regard to the school corporation of legal settlement's alleged failure to provide transportation to a student who attended school in another school corporation on days when the school corporation of legal settlement was not in session, but the receiving school corporation was; and

511 IAC 7-12-1(k) with regard to the school's alleged failure to include in the student's *IEP*:

- a. annual goals that describe what the student can be expected to accomplish within a twelve-month period; and
- b. the length and frequency of special education services to be provided.

FINDINGS OF FACT:

1. The Student is twelve years old and is eligible for special education and related services as a student with a multiple handicap. The Student attends a junior high school (the "School") outside of her home school (the "Home School").
2. The *IEP* written at the May 4, 1999, ACR includes a *Special Transportation* form. This form asks, "Is there a need to document a written justification of excess transit time?" "No" has been checked. The form also states, "Transportation as a related service will be provided as follows:", and the following statement is checked. "Student is transported to another building in same/other school corporation, or to a state-operated school on a daily basis."
3. The *IEP* written at the May 24, 2000 ACR does not include a written justification of excess transit time; however, special transportation is checked in the related services portion of the *IEP*. The *IEP* also states that the Student's placement will be determined when the CCC reconvenes in August 2000.
4. The Director reported that the Complainant declined to discuss ways to reduce the Student's transit time because the Complainant stated that the Student would not be attending the School outside of the Home School during the 2000-01 school year.
5. The supervisor of special programs reported that during the May 24, 2000 ACR options were discussed with the Complainant with respect to shortening the Student's transit time. One option discussed was providing transportation where the Student was the only passenger on the van and she could be picked up later in the morning and possibly dropped off earlier in the afternoon. Another option was having the Complainant transport the Student with reimbursement from the Home School. The Complainant responded to the first option by stating that during the 2000-01 school year the Student was not going to be attending the School, but would be attending school in her Home School. The Complainant responded to the second option by stating it was "not an option."
6. In a letter dated April 6, 2000, the Student's pediatrician (the "Pediatrician") wrote the supervisor of special programs on behalf of the Complainant's request that a portable suction machine be carried on the bus and that the paraprofessional be instructed in its use.
7. In a letter dated May 18, 2000, the Pediatrician wrote the supervisor of special programs on behalf of the Complainant's request that the Student's seizure disorder be documented.
8. As of May 12, 2000, a suction machine was purchased by the local special education office. The Director reported that training for the Student's bus driver and bus paraprofessional regarding the Student's medical needs are scheduled for the 2000-01 school year.
9. The Student's *IEP* for the 1999-2000 school year indicates that she will participate in extracurricular and nonacademic activities "as [Student] and parents desire." The Student's *IEP* for the 2000-01 school year states that the Student will participate in extracurricular and nonacademic activities "as parents and [Student] are interested."
10. The Director reported that the Student left the elementary school setting and entered a middle school program for the 1999-2000 school year. The Student has participated in educational programs and services considered appropriate for her. The Director also stated that the Complainant has not requested the Student participate in any non-academic and extracurricular services.
11. The Student's classroom teacher reported that during the Student's last year at the elementary school program (1998-99 school year), the Student participated in the lunchroom, physical

education with general education students, general education science and music, and going to the library. During the Student's first year in a middle school program (1999-2000 school year), the Student participated in the following activities: convocations with general education students; the special friends activity where general education students came to the classroom on a weekly basis and talked/interacted with the Student using the Student's Alpha Talker; and having general education students work with the Student during the third and seventh periods in the Student's classroom.

12. The Student's annual case review (the "ACR") was held on May 24, 2000. The case conference committee (the "CCC") determined that extended school year services ("ESY") were appropriate for the Student. The CCC *Summary* indicates that a total of twenty hours of ESY was to be provided to the Student during the summer; consisting of eight hours of occupational therapy, eight hours of physical therapy, and 4 hours of speech therapy. The *IEP* states, "Services will be scheduled w/parents and therapists." The initiation and duration of services dates are listed as June 15, 2000 to August 1, 2000.
13. In three separate letters, all dated June 12, 2000, the Complainant sent letters to the Director, the local special services supervisor, and the Home School's superintendent because ESY had not yet been initiated.
14. In a letter dated June 26, 2000, the supervisor of low incidence programs offered several options to the Complainant so that ESY could be provided to the Student. The low incidence supervisor closed the letter by stating, "We shall await further information from you."
15. The Director reported that the Complainant contacted her on June 29, 2000, asking why ESY had not been initiated. The Director, along with the local special services supervisor and the supervisor of low incidence programs, have contacted a total of nine individuals to provide ESY to the Student in the Student's home. Because of the rural area where the Student lives, most individuals have not wanted to commit the time it takes to drive to the Student's home, or they have not wanted to work during the summer. The Director also reported that even with mileage reimbursement, the Complainant has refused to transport the Student to a rehabilitation facility so that ESY could be provided. Currently, the Director is attempting to find a way to transport both the Student and the Complainant to the rehabilitation facility for ESY.
16. As of the time of this complaint investigation, the Student has not received any ESY.
17. At the May 4, 1999 ACR the need for ESY was considered and "No" was checked on the *IEP*. At a CCC meeting on December 9, 1999, the CCC agreed that the determination for the need for ESY would be made at the ACR in the Spring of 2000. The CCC determined that ESY was appropriate for the Student at the May 24, 2000 ACR and "Yes" was checked on the *IEP*.
18. The Home School was closed due to inclement weather on January 18, 20, 24, 25, and 31, 2000. The School was closed due to inclement weather on January 20 and 31, 2000. The Director reported that the Home School frequently closes in the winter but the School in the attending county does not close on all the same days. For the safety of the Student, and because of the rural nature of the Home School county, the Student is not transported on days when the Home School county determines the roads are unsafe.
19. The annual goals in the *IEP* written at the May 24, 2000 ACR indicate that they are annual goals. The short-term objectives to be implemented in the Student's academic environment do not include the length and frequency of special education services to be provided.

CONCLUSIONS:

1. Findings of Fact #3, #4, and #5 indicate that there was disagreement within the CCC with respect to the Student's transportation options, and that the CCC is to reconvene in August of 2000 to determine the Student's placement. Therefore, because the Student's placement was not determined at the May 24, 2000 CCC meeting, transportation was also a decision the CCC was unable to determine at the time of the ACR. Finding of Fact #2 indicates that the *IEP* for the 1999-2000 school year included transportation as a related service; however, there was no written student specific justification for the Student's excessive transit time. A violation of 511 IAC 7-6-6(e) occurred with respect to the previous *IEP* dated May 4, 1999.
2. Findings of Fact #6, #7, and #8 indicate that although training is scheduled for the 2000-01 school year, the bus driver and the bus paraprofessional were not trained with respect to the Student's medical needs during the 1999-2000 school year. A violation of 511 IAC 7-6-2(e) occurred.
3. Findings of Fact #9, #10, and #11 indicate that educational programs and services have been made available to the Student, and the Student has been afforded an equal opportunity to participate in non-academic and extracurricular activities. No violation of 511 IAC 7-12-2 occurred.
4. Finding of Fact #17 indicates that at the May 4, 1999 ACR the CCC considered the need for ESY and determined it was not necessary for the Student. Finding of Fact #12 indicates that at the May 24, 2000 ACR the CCC determined Student required ESY. No violation of 511 IAC 7-12-1(k)(11) occurred.
5. Findings of Fact #12, #13, #14, #15, and #16 indicate that the Student has not received ESY as determined necessary by the CCC, and as written in the Student's *IEP*. A violation of 511 IAC 7-12-1 occurred.
6. Finding of Fact #18 indicates that the Student was not transported to School on three occasions when the Home School was closed due to inclement weather and because the Student's residence is in a rural area, and considered unsafe for travel. No violation of 511 IAC 7-6-3 occurred.
7. Finding of Fact #19 indicates that the Student's *IEP* does include annual goals expected to be accomplished within a twelve-month period. However, the Finding indicates that the short-term objectives do not include the length and frequency of special education services to be provided. A violation of 511 IAC 7-12-1(k) 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 Switzerland County School Corporation and the Madison Area Educational Special Services Unit shall:

- 1.a. conduct an inservice training with all professional personnel from the Home School and the School with respect to the requirement that a written justification must be included in a student's educational record when that student's transit time exceeds that of nondisabled students of comparable age. A copy of the inservice training agenda, along with a list of those trained by signature and title shall be submitted to the Division no later than September 1, 2000.
- 1.b. reconvene the Student's CCC prior to the beginning of the 2000-01 school year to determine the Student's placement for the upcoming school year. At that time the Student's transportation needs

shall also be determined and documentation shall be included in the Student's educational record if transportation will exceed that of nondisabled peers. A copy of the Student's *CCC Summary/IEP* shall be submitted to the Division no later than September 1, 2000.

2. conduct an inservice training with the Student's bus driver and paraprofessional with respect to the Student's medical needs. A copy of the inservice training agenda, along with a list of individuals trained by signature and title, shall be submitted to the Division no later than September 1, 2000.
3. revise the Student's *IEP* when the CCC reconvenes before the 2000-01 school year to include compensatory services, as was indicated in the *IEP* that the Student was to have received between June 15, 2000 and August 1, 2000. The compensatory services shall be provided during the 2000-01 school year. A copy of the Student's *CCC Summary/IEP* shall be submitted to the Division as indicated in Corrective Action 1.b.
- 4.a. conduct an inservice training with all professional personnel from the Home School and the School with respect to the requirement that all short-term instructional objectives must include the length and frequency of special education services a student will receive. A copy of the inservice training agenda, along with a list of individuals trained by signature and title, shall be submitted to the Division no later than September 1, 2000.
- 4.b. revise the Student's *IEP* when the CCC reconvenes prior to the 2000-01 school year to ensure that the short-term instructional objectives include the length and frequency of special education services for all of the Student's long-term goals. A copy of the Student's revised *IEP* shall be submitted to the Division as indicated in Corrective Action 1.b.

DATE REPORT COMPLETED: July 24, 2000