Indiana Department of Education **Division of Special Education**

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	**1592.00 A & B**
COMPLAINT INVESTIGATOR:	**Jane Taylor-Holmes**
DATE OF COMPLAINT:	**June 30, 2000**
DATE OF REPORT:	**August 1, 2000**
REQUEST FOR RECONSIDERATION:	**no**
DATE OF CLOSURE:	**September 1, 2000**

COMPLAINT ISSUES:

Whether the West Washington School Corporation and the South Central Area Special Education Cooperative violated:

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

a. failing to provide interpreter services upon the departure of the interpreter;
b. failing to ensure a teacher was available to provide instruction in his vocational classes;
c. failing to provide the opportunity to conduct science experiments and complete journals; and
d. failing to provide interpreter services in the physical education class.

511 IAC 7-12-1(g)(3) with regard to the school's alleged failure to convene a case conference committee meeting for students A and B upon the parent's request.

511 IAC 7-12-1 with regard to the school's alleged failure to implement the *IEP* as written for student B, specifically, failing to provide an interpreter on a number of days during the 1999-2000 school year.

FINDINGS OF FACT:

1. Student A ("Student A") is 17 years old and is eligible for special education and related services as a student with a hearing impairment ("HI"). During the 1999-2000 school year Student A received special education instruction in the HI classroom in the mornings and attended the vocational program in the afternoons. The Student will begin the 11th grade at the beginning of the 2000-01 school year.

2. Student A's *IEP* for the 1999-2000 school year includes the following:

   a. Interpreter all day for all subjects during the 1999-2000 school year at the school and the career center.
   b. Do simple science experiments/social studies activities as time permits. Practice writing skills, organizational skills, computer skills by using webs, semantic maps, sentence structures, writing journals, etc.

3. Student A began the 1999-2000 school year receiving instruction in the mornings in the HI

classroom from the Lead HI Teacher. Student A had an interpreter in the mornings (the “Morning Interpreter”) while in the HI classroom.

4. The Morning Interpreter left school employment sometime in December 1999. After the Morning Interpreter was discharged, the Lead HI Teacher provided interpreter services, in addition to providing instruction to Student A while in the HI classroom.

5. Student A attended the vocational school in the afternoons and had an interpreter (the “Afternoon Interpreter”) assist him while there.

6. The Afternoon Interpreter took a leave of absence on or about April 24, 2000. At that time, the Lead HI Teacher went to the vocational school in the afternoons and provided interpreter services to Student A. According to mileage claim forms, the Lead HI Teacher provided interpreter services to Student A at the vocational school on April 24, 25, 26, and 27, 2000, and May 2, 4, 5, 9, 12, 15, and 16, 2000.

7. Student A’s welding instructor at the vocational school reported that at no time was Student A ever left unattended. If the welding instructor ever had to leave the room, an interpreter was always in the room and accessible to Student A.

8. After the Morning Interpreter left school employment, the Lead HI Teacher reported that first period began by giving Student A a spelling/vocabulary lesson, and then he was given an assignment to be completed independently. The Lead HI Teacher then went to check on two other HI students in their mainstreamed class. While the Lead HI Teacher was gone, Student A had access to the other HI teacher and two interpreters in an adjoining room. The Lead HI Teacher stated that she was never gone more than 15 minutes at a time, and would return in time to accompany Student A to speech class. After speech the Lead HI Teacher accompanied Student A to physical education (“PE”) and would interpret the instructions at the beginning of that class. Once the students were engaged in activity, she went to check on the other two HI students who were in a different class by that time. The Lead HI Teacher then returned to PE to interpret for Student A, as necessary. After PE, the Lead HI Teacher and Student A returned to the HI classroom for math or language arts. It was at this time that the other two HI students then came to the HI classroom for instruction in language arts.

9. The Lead HI Teacher reported that Student A’s instructional day began at 8:30. He had speech every day for 20 minutes, and PE every day for 50 minutes. His lunch was from 11:30 to 12:00 each day. From 12:00 until 12:30, Student A was back in the HI classroom until leaving at 12:30 to attend the vocational school. Student A attended the vocational school from 1:00 until the end of Student A’s instructional day at 2:30. The Lead HI Teacher stated that with such little instructional time in the HI classroom, it was difficult to work consistently on every item indicated in Student A’s *IEP*.

10. The Lead HI Teacher reported that her instruction time with Student A was usually 15-20 minutes in length, and the majority of each morning was spent one-to-one with Student A because he was the only student until the other two HI students returned to the HI classroom. Instruction was then provided to all three students as needed. The lessons taught always included independent activity to reinforce the material being taught. During Student A’s independent activity, he had access to the other HI teacher and two interpreters in the adjoining room.

11. The Lead HI Teacher reported that during May 2000, she instructed most of Student A’s lessons, but on a few occasions the elementary school teacher provided instruction. According to mileage claim forms, the elementary school teacher also provided interpreting to Student A at the vocational school on March 24, 2000, and May 3, 10, and 11, 2000.

12. Student A's and Student B's mother (the "Mother") was an interpreter at the local elementary school (the "Elementary School"). The Mother reported that Student A attended the HI classroom for one class period daily, and there were two other students in the HI classroom. The Mother stated that either the Lead HI Teacher or the Afternoon Interpreter were in the HI classroom; although there were several occasions that Student A was left alone in the HI classroom.

13. The complainant contends that Student A was left unattended in the HI classroom for as long as a class period on April 17, 18, 19, 20, 24, 25, 26, and 27, 2000.

14. The Coordinator reported that Student A's writing assignments were not bound in a "journal"; however, many writing assignments were done on the computer as part of the required computer time as indicated in the *IEP*. Copies Student A's writing assignments were sent home. The Coordinator also reported that science was taught as a subject, but experiments were to be done "as time permits" as indicated in the *IEP*. Because Student A attended the vocational school each afternoon and much of the morning was spent on very specific required amounts of time for other designated subjects, there was no remaining time to conduct experiments.

15. The Lead HI Teacher reported that Student A's writing assignments were not completed as journals, per se, but consisted of functional writing, assisted writing, and independent writing assignments. Copies of Student A's writing assignments were submitted by the school.

16. Student B ("Student B") is 12 years old and completed the fifth grade at the local elementary school (the "Elementary School"). The Student is eligible for special education and related services as a student with a HI.

17. Student B's *IEP* for the 1999-2000 school year states that he was to participate fully in the general education classroom and have an aide/interpreter with him all day, except for speech. Speech was to be provided four times weekly for 20 minute sessions.

18. According to the complainant, the Mother provided interpreter services to Student B toward the end of the school year and on February 1, 2000.

19. The Mother reports that the regular interpreter for Student B was replaced by another interpreter (the "Replacement") at the end of December 1999. The Mother reported that the Replacement was at the Elementary School on January 4, 5, 6, 7, 10, 11, 14, 17, 21, 24, 25, 27, 28, and 31, 2000; however, the Replacement was unable to sign. The Mother reported that Student B had no interpreter or aide on the following days: December 20, 21, and 22, 1999; January 3, 12, 13, 19, 20, 26, 2000; and February 1, 2000.

20. The Coordinator reported that the Replacement was hired at the beginning of January 2000, because Student B's regular interpreter was on a medical leave. The Coordinator reported that the Replacement was unreliable and incurred frequent absences. According to the attendance records, the Replacement was absent January 12, 13, 18, 19, 26, and 27, 2000. The Coordinator reported that the Replacement left school employment several weeks after being hired.

21. The Lead HI Teacher reported that there were probably a couple of occasions when Student B did not have direct interpreter services; however, Student B is very oral and is more attentive without direct interpreter services. The Lead HI Teacher also reported that Student B never missed any instructional time.

22. Annual case reviews (the "ACR") for both Student A and Student B were held on April 14, 2000, and reconvened on May 17, 2000. *IEP*s for the 2000-01 school year were completed for both Student A

and Student B.

23. On May 30, 2000, the complainant went to the Cooperative and submitted a written request for case conference committee (the "CCC") meetings for both Student A and Student B. The Director was not in the office at that time.

24. On June 8, 2000, the Director called the complainant, informing the complainant of the difficulty it would be to get all the required CCC participants together during the summer. The Director informed the complainant that efforts would be made and that the Director would contact the complainant the following week. On June 13, 2000, the Director informed the complainant that in order to reconvene the CCC meetings, and guarantee attendance of the appropriate staff requested by the Complainant, they would have to wait until on or about August 14, 2000.

CONCLUSIONS:

1.a. Findings of Fact #3, #4, #5, #6, #7, #8, #9, #10, and #11 indicate that Student A had an interpreter available to him upon the departure of both the Morning Interpreter and the Afternoon Interpreter. No violation of 511 IAC 7-12-1 occurred.

1.b. Findings of Fact #5, #6, and #7 indicate that Student A had an interpreter available to him at the vocational school. No violation of 511 IAC 7-12-1 occurred.

1.c. Findings of Fact #2, #14 and #15 indicate that a journal was not kept as indicated in Student A's *IEP*. A violation of 511 IAC 7-12-1 occurred with respect to completing journals.

1.d. Findings of Fact #2, #9 and #14 indicate that Student A had little instructional time in the HI classroom; however, Student A's *IEP* states that science experiments would be done as time permits. No violation of 511 IAC 7-12-1 occurred.

1.e. Finding of Fact #8 indicates that the Lead HI Teacher accompanied Student A to PE, and provided the necessary instructions at the beginning of the class. No violation of 511 IAC 7-12-1 occurred.

2. Finding of Fact #22 indicates that Student A and Student B had ACRs and that *IEP*s were written for both. Finding of Fact #23 indicates that the Complainant requested CCC meetings for both Student A and Student B after the instructional year was over. Finding of Fact #24 indicates that the Director informed the Complainant that CCC meetings will be conducted on or about August 14, 2000, when all required personnel are available to participate. No violation of 511 IAC 7-12-1(g)(3) occurred.

3. Finding of Fact #21 indicates that the Lead HI Teacher reported that although Student B never missed any instructional time, there were some occasions that Student B did not have an interpreter available to him. A violation of 511 IAC 7-12-1 occurred.

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

CORRECTIVE ACTION:

The West Washington School Corporation and the West Central Area Special Education Cooperative shall:

notify all school corporation professional personnel with regard to the requirement to implement student *IEP*s as written. A copy of the written notification, along with a list of professional

personnel who have been notified, shall be submitted to the Division no later than August 31, 2000.

DATE REPORT COMPLETED: August 1, 2000