

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1601.00  
**COMPLAINT INVESTIGATOR:** Steve Starbuck  
**DATE OF COMPLAINT:** July 27, 2000  
**DATE OF REPORT:** August 23, 2000  
**REQUEST FOR RECONSIDERATION:** yes (revisions resulting from reconsideration are underscored)  
**DATE OF CLOSURE:** November 3, 2000

**COMPLAINT ISSUES:**

Whether the Monroe County Community School Corporation violated:

511 IAC 7-12-1(k)(11) with regard to the school's alleged failure to ensure the case conference committee (CCC) considered and documented on the student's individualized education program (IEP) the student's need for extended school year services.

511 IAC 7-12-1 with regard to the school's alleged failure to utilize the CCC to determine the amount of occupational therapy services to be provided to the student.

34 CFR 300.347(a)(7) with regard to the school's alleged failure to include in the student's IEP a statement of how the student's progress toward annual goals will be measured and how the student's parents will be regularly informed of the student's progress toward the annual goals and the extent to which the student's progress is sufficient to enable the student to achieve the goal by the end of the year.

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

- a. failing to conduct an occupational therapy evaluation during the fall of 1999;
- b. failing to provide consultative occupational therapy services during the 1999-2000 school year;
- c. failing to provide occupational therapy services at the stated frequency; and
- d. failing to keep an occupational therapy log.

511 IAC 7-6-4 and 410 IAC 6-5.1-5(d) with regard to the school's alleged failure to have a classroom for speech therapy of at least 30 square feet per child.

511 IAC 7-12-1(e) with regard to the school's alleged failure to include a public agency representative at the student's CCC meeting.

511 IAC 7-11-1 and 511 7-26-2 with regard to the school's alleged failure to ensure that professional and paraprofessional staff serving students with autism or autism spectrum disorder have received specialized training in these areas.

During the course of the investigation, an additional issue was identified, which is:

34 CFR 300.309(a)(1) and 511 IAC 7-27-6(a)(8) with regard to the school's alleged failure to ensure that extended school year services are available to all special education students as necessary to provide a free appropriate public education.

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

1. The student is ten years old will be attending the fifth grade this fall. The student has been determined eligible for special education due to autism and a communication disorder.
2. The director submitted IEPs for the student dated May 14, 1999, and July 11, 2000. Page five of both IEPs has a statement which reads: "Is extended school year recommended?" After this statement are two spaces. One is to check yes, the other to check no. The no space has been checked on both IEPs. There are no notes recorded in the CCC Summaries concerning the need for extended school year services. The parents attended both CCC meetings.
3. The IEP dated May 14, 1999, states the student will receive occupational therapy for a minimum of 90 minutes each month. The IEP states the service will be delivered direct and integrated in the classroom and community, and that consultation will be provided. There is no indication as to how often consultation services will be provided during the duration of the IEP. The parents attended the CCC meeting, and the mother signed the IEP.
4. The IEP dated May 14, 1999, lists seven annual goals on seven separate sheets of paper. None of the seven pages list how the student's parents will be informed of the student's progress made towards annual goals. The IEP dated July 11, 2000, lists ten annual goals on ten separate sheets of paper. None of the ten pages list how the student's parents will be informed of the student's progress made towards annual goals. All annual goal forms indicated how the student's progress towards annual goals will be measured. In addition, the annual goal and objectives form lists the following statement: "progress to be reviewed each grading period." The director states this statement is preprinted on each annual goal form. There is no indication or place on the annual goal form to reflect that the frequency in which a parent is informed of a student's progress made towards annual goals is a CCC decision.
5. The parent alleges the student did not receive an occupational therapy evaluation during the fall of 1999. There is no mention of such an evaluation in the IEP dated May 14, 1999. The parent asserts that, in the section of the May 1999 IEP that addresses a student's need for extended school year services, under the subsection requiring the CCC to document the degree of regression in the event extended school year services are recommended, the statement "monitor through September 30, 1999, to determine regression" indicates that the Student was to have an occupational therapy evaluation conducted in the fall. However, the IEP does not state what is to be monitored, and there is no indication that any kind of evaluation is to be conducted at the end of the monitoring.
6. The director provided a copy of the occupational therapist's progress notes that documents the therapist provided consultative services to the student. The occupational therapist provided consultative services on 25 occasions during the 1999-2000 school year. It cannot be determined if the amount of services provided was consistent with the IEP as the frequency for consultative services is not listed in the IEP dated May 14, 1999.
7. The IEP dated May 14, 1999, states the student will receive occupational therapy for a minimum of 90 minutes each month. The service is to be delivered direct and integrated in the classroom and

community. The IEP also states the student will receive consultation services. According to the director, the occupational therapist provided consultation to the student's general education teacher on a weekly basis; however, this is not documented in the progress notes maintained by the occupational therapist. In addition, the Student's teacher reported to the Complainant that the occupational therapist had not provided her with any suggestions for working with the Student. The occupational therapist's progress notes do not indicate whether the therapist met with the student to provide direct service that was integrated in the classroom and community. In addition, there is no record as to how long the service was provided for each date listed on the progress notes. The director acknowledges that the student failed to receive some occupational therapy sessions as required by the student's IEP. The Case Conference Committee Summary/IEP dated July 11, 2000 indicated that the CCC considered the Student's need for compensatory occupational therapy services as a result of the interruption in services during the school year. The CCC agreed that the Student would receive four sessions of compensatory occupational therapy during summer school. The compensatory occupational therapy sessions were provided on July 18, 19, 27, and 28, 2000.

8. A service delivery log for the student was maintained by the occupational therapist from September 7, 1999, through April 30, 2000.
9. The director provided a diagram of the classroom used to provide the student with instruction for speech therapy services. The classroom is identified as Room 120. Based on a facilities inventory record, Room 120 has 229 square feet. The director states the speech therapist never provides instruction to more than three students at a time in this particular classroom.
10. The IEP indicates the building principal served as the public agency representative with the authority to commit public agency resources at the CCC meeting convened on May 14, 1999. According to the IEP, the transition-inclusion coordinator served as the public agency representative with the authority to commit public agency resources at the CCC meeting convened on July 11, 2000. Both individuals have the authority to serve as a public agency representative and have received appropriate training to serve in this capacity.
11. The director states each year the student has attended his current school, the student's teacher of record has met with the student's general education teachers and paraprofessional staff to provide them with specialized training in autism. According to the director, the student's teacher of record has participated in numerous training sessions regarding the topic of autism. The student's teacher of record states she received a one week training course on autism and autism spectrum disorders provided by the Indiana Resource Center for Autism. The teacher of record states she has attended approximately four other workshops concerning the topic of autism, and has worked closely with all staff that have worked with the student over the last five years. The teacher of record states she developed a packet of information on the subject of autism which has been given to every staff member that has worked with the student. The director did not supply the Division with documentation to verify training the teacher of record had received in the area of autism. The teacher of record states she did not maintain written records regarding staff she had trained in the area of autism.
12. According to the director, 1592 students in grades kindergarten through twelfth grade have been identified as being eligible for special education. The director provided documentation that 8 of the 1592 special education students are receiving extended school year services. The director provided a copy of the school corporation's policy regarding extended school year services. The director states the need for extended school year services is discussed at each CCC meeting, and the committee's decision is always noted on the IEP and CCC Summary documents. The director states he routinely reviews the extended school year services policy with educational and administrative staff.

## CONCLUSIONS:

1. Finding of Fact #2 indicates the CCC considered and documented on the IEPs the student's need for extended school year services. Therefore, no violation of 511 IAC 7-12-1(k)(11) is found.
2. Finding of Fact #3 reflects the CCC failed to determine the amount of occupational therapy consultative services necessary to meet the student's educational needs. Therefore, a violation of 511 IAC 7-12-1 is found.
3. Finding of Fact #4 indicates the school failed to specify in the IEP how the student's parents would be informed of the student's progress made towards annual goals. In addition, due to the preprinted statement on the annual goal form, the CCC did not determine the frequency at which the parents would be informed of the student's progress made towards annual goals. Therefore, a violation of 34 CFR 300.347(a)(7) is found.
4. Finding of Fact #5 reflects that no reference was made in the IEP dated May 14, 1999, that an occupational therapy evaluation would be conducted in the fall of 1999. Therefore, no violation of 511 IAC 7-12-1 is found.
5. Finding of Fact #6 indicates that occupational therapy consultative services were provided during the 1999-2000 school year; however, it cannot be determined if the amount of services provided was consistent with the IEP as the frequency for consultative services was not listed in the IEP dated May 14, 1999. Therefore, a violation of 511 IAC 7-12-1 is found.
6. Finding of Fact #7 reflects that the occupational therapist's log did not indicate how the service was delivered or how long the service was provided. A violation of 511 IAC 7-12-1 is found. However, the CCC subsequently convened and determined the Student would be provided with compensatory occupational therapy services. The four compensatory sessions were provided on July 18, 19, 27, and 28, 2000. Therefore, no additional corrective action will be required.
7. Finding of Fact #8 indicates the occupational therapist maintained a service delivery log. Therefore, no violation of 511 IAC 7-12-1 is found.
8. Finding of Fact #9 reflects that speech therapy services are provided in a classroom which has at least 30 square feet per student. Therefore, no violation of 511 IAC 7-6-4 and 410 IAC 6-5.1-5(d) is found.
9. Finding of Fact #10 indicates that a public agency representative with the authority to commit public agency resources attended CCC meetings convened on May 14, 1999, and July 11, 2000. Therefore, no violation of 511 IAC 7-12-1(e) is found.
10. Finding of Fact #11 reflects that the school failed to document that professional and paraprofessional staff serving students with autism or autism spectrum disorder have received specialized training in these areas. Therefore, a violation of 511 IAC 7-11-1 and 511 7-26-2 is found.
11. Finding of Fact #12 indicates that the school has ensured that extended school year services are available to all special education students as necessary to provide a free appropriate public education. Therefore, no violation of 34 CFR 300.309(a)(1) and 511 IAC 7-27-6(a)(8) 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. Reconvene a CCC meeting to determine:
  - a. the amount and frequency of occupational therapy consultative services necessary to meet the student's educational needs;
  - b. how and when the parent will be informed of the student's progress made towards annual goals; and
  - c. the need for compensatory educational services. The CCC should review the need for compensatory educational services within the context of whether the occupational therapist's failure to consult with the Student's teacher(s) regarding the Student's needs negatively impacted the Student's ability to benefit from his special education program. The requirement to consider the Student's need for compensatory occupational therapy services contained in the original complaint investigation report is rescinded as it was previously completed.

Submit a copy of the revised IEP and Case Conference Summary Report to the Division no later than September 29, 2000.

2. Revise the annual goal and objectives form to reflect that the frequency with which a parent is to be informed of a student's progress made towards annual goals is a CCC decision. Submit a copy of the revised form to the Division no later than September 29, 2000. If necessary, revise any policies and procedures that do not reflect that the CCC determines how and when a parent is informed of a student's progress made towards annual goals. Submit a copy of these policies and procedures to the Division no later than September 29, 2000.
3. In-service all appropriate personnel in the school corporation as to the requirements specified in 511 IAC 7-27-6(a)(5) and (7), and 511 IAC 7-26-2(d). Submit documentation to the Division that the in-service training has been completed no later than September 29, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
4. Develop a log to record occupational therapy services that reflects the following: date service is provided, type of service provided, length of service delivered, a space to record the student's progress, and a space for the provider to record their name and title. Submit a copy of the occupational therapy log to the Division no later than September 29, 2000.
5. Submit a letter of assurance to the Division no later than September 29, 2000, stating that the school corporation will provide and document in writing that all professional and paraprofessional staff serving students with autism spectrum disorder shall receive specialized in-service training in this area.

