

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1603.00  
**COMPLAINT INVESTIGATOR:** Steve Starbuck  
**DATE OF COMPLAINT:** August 1, 2000  
**DATE OF REPORT:** August 14, 2000  
**REQUEST FOR RECONSIDERATION:** yes (revisions resulting from reconsideration are underscored)  
**DATE OF CLOSURE:** November 2, 2000

**COMPLAINT ISSUES:**

Whether the Hamilton Southeastern Schools and the Hamilton-Boone-Madison Special Services Cooperative violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement an agreed upon individualized education program (IEP) as written, specifically, failing to reconvene a case conference committee (CCC) meeting.

During the course of the investigation, additional issues were identified, which are:

34 CFR 300.344(a)(2) with regard to the school's alleged failure to include in the CCC meeting at least one general education teacher.

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

511 IAC 7-12-1(k)(11) with regard to the school's alleged failure to indicate in the student's IEP the necessity for extended school year services to provide the student with a free appropriate public education.

**FINDINGS OF FACT:**

1. The student is seven years old and has been determined eligible for special education due to a multiple handicap and a communication disorder.
2. An annual CCC meeting was convened for the student on May 31, 2000. Page two of the Discussion Summary Report states, "Conference was suspended all will reconvene this summer and then again in August." A CCC meeting was not reconvened until August 9, 2000.
3. The last page of the IEP written on May 31, 2000, lists the CCC participants. The signatures of the participants are listed as follows: both parents, the special education teacher, and under the heading "other" is the signature of an individual whose title is listed as "AT Coordinator." There are spaces for the signatures of the agency representative and the general education teacher; however, these spaces are blank. Although the director of special education for the local school corporation attended the May 31 CCC meeting as the public agency representative, she failed to sign the CCC Report indicating her attendance as the public agency representative. Page four of the IEP states

the student will participate in the general education curriculum. The School states that a general education teacher did not attend the May 31 CCC meeting because a decision on the Student's participation in general education had not been made.

4. Page five of the IEP written on May 31, 2000, has spaces to check to indicate if the student requires extended school year services (ESY). Both the yes and no spaces are blank. At the time of the May 31 CCC meeting, the IEP from the previous annual case review was still in effect and did not include ESY. The next annual case review was initially convened on May 31, 2000, was suspended after a partial meeting, and was reconvened on August 9, 2000. It is unclear whether the CCC discussed the issue of ESY prior to suspending the meeting; however, ESY was considered by the CCC when the CCC reconvened on August 9 and completed the IEP.

#### **CONCLUSIONS:**

1. Finding of Fact #2 indicates the CCC planned to convene during the summer and then again in August. This manner in which this is worded implies that the CCC would convene sometime prior to August 1 and again after August 1. The school failed to convene a CCC meeting between May 31, and July 31, 2000, as specified in the IEP dated May 31, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 reflects that, at the May 31 CCC meeting, the CCC determined the Student would participate in general education. A general education teacher is required to participate as a member of the CCC "if the child is, or may be, participating in the [general] education environment." Although it is a CCC decision on whether a student participates in general education, if there is a possibility the student will participate in the general education environment, a general education teacher must participate as a member of the CCC. The school failed to include in the CCC meeting at least one general education teacher. Therefore, a violation of 34 CFR 300.344(a)(2) is found.
3. Finding of Fact #3 indicates a public agency representative attended the May 31 CCC meeting, although the representative failed to sign the CCC Report in that capacity. Therefore, no violation of 511 IAC 7-12-1(e)(1) is found.
4. Finding of Fact #4 reflects that, prior to the expiration of the previously agreed upon IEP, the CCC convened for the annual case review, decided to suspend the meeting before it concluded, and reconvened to complete the meeting and the Student's IEP. The completed CCC Report and IEP indicate that the CCC considered the Student's need for extended school year services. Therefore, no violation of 511 IAC 7-12-1(k)(11) 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 Hamilton Southeastern Schools and the Hamilton-Boone-Madison Special Services Cooperative shall:

1. The corrective action of the original report requiring the School to reconvene the CCC to determine the need for compensatory services is rescinded.
2. In-service all appropriate staff in the school corporation as to the requirements specified in 511 IAC 7-27-3(a)(3), 511 IAC 7-27-6(a)(8), and 511 IAC 7-27-7(a). Submit documentation to the Division that the in-service training has been completed no later than October 27, 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. The corrective action of the original report requiring inservice on the requirements of 511 IAC 7-27-3(a)(1) is rescinded.