

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1609.00
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: August 29, 2000
DATE OF REPORT: September 26, 2000
REQUEST FOR RECONSIDERATION: November 2, 2000 (revisions to original report are underscored)
DATE OF CLOSURE: April 5, 2001

COMPLAINT ISSUES:

Whether the Westfield-Washington Schools and the Hamilton-Boone-Madison Special Services violated:

511 IAC 7-12-1(j) with regard to the school's alleged failure to utilize the case conference committee (CCC), convened on April 10, 2000, to determine the length, frequency, and location of case management services to be provided and to be included in an application for alternative services funding.

511 IAC 7-12-1(k) with regard to the school's alleged failure to include in the student's April 10, 2000, IEP the length, frequency, and location of the needed case management services.

511 IAC 7-12-1(j) and 511 IAC 7-12-5(c) with regard to the school's alleged failure to utilize the CCC to determine the amount of case management services the student needed before submitting a "revised" application for alternative services funding to the Department of Education in June, 2000.

511 IAC 7-12-5(c) with regard to the school's submission of an alternative services funding application for child care services when the CCC made no determination of the need for child care services and such services were not included in the student's IEP.

511 IAC 7-27-5(a)(4) with regard to the school's alleged failure to provide the parent with a complete and current copy of the student's IEP that reflect the revisions from June, 2000.

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

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 parent will be informed of the student's progress made toward annual goals.

An brief extension of time was granted in issuing a response to the school's request for reconsideration. The response was originally due on October 27, 2000; however, the director required additional time to review the current and proposed practices with the special education planning district.

FINDINGS OF FACT:

1. The student is in the eighth grade and receives full-time day school programming through the local special education cooperative. The student has been determined eligible for special education due to autism, a communication disorder, and an emotional handicap.

2. On May 3, 2000, the Division received a renewal application from the special education planning district requesting funding for residential/alternative services for the student for the summer months and the 2000-2001 school year. An IEP, dated April 10, 2000, was included with the application. The Discussion Summary page of this IEP describes the Student's need for case management support services and indicates that respite services were discussed. However, the IEP did not list case management or respite services with the other related or special services to be provided to the Student. The planning district submitted additional application information on June 22, 2000, including two pages from the April 10th IEP that had been revised. The newly submitted pages from the IEP had been revised to reflect that the student would receive 15 hours of case management services per week and 16 hours of respite care services per month. There was a notation on page 5 of the IEP that these services would primarily occur in the family's home or in the community. The parent states the information on these pages of the IEP concerning case management and respite care services was added after the conclusion of the CCC meeting convened on April 10, 2000. The director acknowledges that the specific information regarding case management and respite care services was added by a special education planning district employee after the April 10, 2000, CCC meeting without reconvening a CCC meeting to discuss these matters.
3. According to the director, on June 22, 2000, the special education staff member added the information to pages 5 and 8 of the IEP dated April 10, 2000, without convening a CCC meeting. The director acknowledges the parent was not provided with a copy of the IEP after the additional information was recorded.
4. In Item 21 of the Alternative/Residential Application - Renewal Summary Information the School identifies that, as part of the proposed plan, the following activities will occur during the summer months: "Case management services, respite services via DOE. 3 wks at your school child care and educational [sic] activities plus 8 wks Indy Parks program for special needs students. . ." In another section of the *Application*, the School indicates that child care and summer camp services will be provided through financial resources other than DOE or the local school corporation/cooperative.
5. Six pages of the IEP dated April 10, 2000, list annual goals for the student for the 2000-2001 school year. At the bottom of each *Measurable Annual Goal* page it states "Sent to Parent" followed by lines in which a date could be inserted. Each page indicates when the progress on the stated goal will be reviewed. The School states that this is discussed verbally with the parent at the CCC meeting. However, there is no clear indication that the parent is to receive a copy of each page as the School's means of notifying the parent of the Student's progress, nor is there any indication that other notification options are available. Further, although each page indicates when the goal will be reviewed, there is no stated correlation between this date and the frequency of parent notification, nor is there any place for the reporter to describe the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the CCC discussed the Student's need for case management and respite care services, and the School requested funding for those services in the alternative services application for the Student. Although the CCC discussed and the alternative services application requested funding for these services, neither the CCC Summary nor the IEP contained information that the CCC had determined the amount of case management and respite services the Student required in order to receive a free appropriate public education. Therefore, a violation of 511 IAC 7-12-1(j) is found.

2. Finding of Fact #2 indicates that the length, frequency, and location of case management and respite services were not included in the original April 10, 2000 IEP. Therefore, a violation of 511 IAC 7-12-1(k) is found.
3. Finding of Fact #2 reflects the school failed to utilize the CCC meeting to determine the amount of case management services the student needed before submitting a "revised" application for alternative services funding to the Department of Education in June 2000. Therefore, a violation of 511 IAC 7-12-1(j) and 511 IAC 7-12-5(c) is found.
4. Finding of Fact #4 indicates that the summer child care and camp activities in which the Student was to participate were funded by another source. The School did not include these services as part of its application for funding for alternative services. Therefore, no violation of 511 IAC 7-12-5(c) is found.
5. Finding of Fact #3 reflects the school failed to provide the parent with a complete and current copy of the student's IEP that reflected the revisions from June, 2000. Therefore, a violation of 511 IAC 7-27-5(a)(4) is found.
6. 34 CFR 300.347(a)(7) requires the IEP to contain a statement of "[h]ow the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parent are informed of their nondisabled children's progress, of their child's progress toward the annual goals; and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year." Finding of Fact #5 indicates the School intends to use the Measurable Annual Goals page as the means of informing parents of a student's progress. Despite the School's intent, it is not clear on this page or any other page of the IEP that this is method the School will use to notify the parent, nor does the page include other options for notifying the parent. Further, the Measurable Annual Goals page does not provide any space for providing any information on the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. Therefore, a violation of 34 CFR 300.347(a)(7) 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 Westfield-Washington Schools and the Hamilton-Boone-Madison Special Services shall:

1. Convene a CCC meeting to determine:
 - a. the appropriate amount of case management and respite care services necessary to meet the student's needs; and
 - b. how the parent will be informed of the student's progress made toward annual goals, including information on the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

Submit a copy of the student's revised IEP and Case Conference Summary Report to the Division no later than October 31, 2000.

The corrective action requiring the CCC to determine the student's need for compensatory services is rescinded.

2. If necessary, after convening the CCC meeting, submit a cover letter to the Division requesting funding approval of any changes involving an increase in the need of services determined by the CCC regarding the student's community supported services program. Include with the cover letter

the student's revised IEP, Case Conference Summary Report, and any necessary budget information. Submit this information to the Division no later than October 31, 2000.

3. In-service all appropriate personnel within the school corporation as to the requirements specified in 511 IAC 7-27-12 and 511 IAC 7-27-6(a)(3),(5), and (7). The in-service training for 511 IAC 7-27-6(a)(5) shall include reference to the memorandum dated February 10, 2000, to special education directors from the state director of special education regarding the recording of length and frequency of services in IEPs. Submit documentation to the Division that the in-service training has been completed no later than November 30, 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. Revise the current IEP form to include a statement of "[h]ow the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of their child's progress toward the annual goals; and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year." The revision must also clearly identify how frequently the parents will be notified. A copy of the revised format shall be submitted to the Division for approval no later than December 8, 2000. The school shall comply with additional corrective action to be determined upon approval of the revised IEP format.
5. Until the IEP format is approved by the Division, any IEP developed or revised shall include a written statement clearly describing how and when the parent will be notified of the student's progress toward the annual goals. The school shall submit an assurance statement, no later than November 10, 2000, that it will ensure compliance with this corrective action for all IEPs developed or revised in the interim.