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

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	**1711.01**
COMPLAINT INVESTIGATOR:	**Steve Starbuck**
DATE OF COMPLAINT:	**March 13, 2001**
DATE OF REPORT:	**April 9, 2001**
REQUEST FOR RECONSIDERATION:	**no**
DATE OF CLOSURE:	**June 20, 2001**

COMPLAINT ISSUES:

Whether the Frankton-Lapel Community Schools and the Hamilton-Boone-Madison Special Services violated:

511 IAC 7-19-1(b),(f), and (g) with regard to the school's alleged failure to make available special education and related services to a student with a disability who has been unilaterally enrolled in a private school by the parent.

511 IAC 7-19-1(j) with regard to the school's alleged failure to expend at least an amount that is the same proportion of the public agency's total subgrant under 20 U.S.C. 1411(g) as the number of private school students with disabilities who are three years of age, but less than twenty-two years of age residing in its boundaries is to the total number of students with disabilities of the same age range.

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failure of the student's teacher of record to contact the student's private school teacher two times per month to verify the student's progress at the private school.

FINDINGS OF FACT:

1. The student is eight years old, attends the second grade, and has been determined eligible for special education due to autism and a communication disorder. The student attends a private school, and was unilaterally enrolled in this school by her parents.

2. The student's IEP dated October 23, 2000, reflects the school convened a case conference committee (CCC) meeting and determined the student's need for special education and related services. The IEP includes the required components specified in 511 IAC 7-27-6. The IEP reflects that a representative of the private school attended the CCC meeting. The CCC identified three annual goals for the student. They are: increase math computation to grade level, correctly produce the "th" sound at conversation level with 100% accuracy, and improve fine-motor skills to facilitate increased development in writing skills. Page seven of the IEP reflects that the CCC determined the following services were necessary to assist the student with achieving the annual goals and to address the student's special education needs:

    a. Occupational Therapy - 4 times per month for a minimum of 100 minutes at the student's home school;

b. Speech Therapy - 1 time per week for a minimum of twenty minutes each session at the student's home school; and
c. Resource Services - 1 time per day for a minimum of 30 minutes in the classroom at the student's home school.

The parent signed the IEP on October 23, 2000, indicating agreement with the recommendations made by the CCC, and giving consent for the IEP to be implemented.

3. According to an analysis completed by the Division's federal project coordinator, as of December 1, 1999, the special education planning district where the student attends school had identified 4, 832 students as needing special education and related services. Of this number, 34 students attended private schools. The percentage of special education students attending private schools is 0.70 for the student's special education planning district. Based on this percentage, the minimum federal requirement for the public agency to expend for services to private school students for the 2000-2001 school year is $21,008.21 according to the analysis. The director provided an itemized listing of the public agency's estimated cost of services to be provided to private school students for the 2000-2001 school year. This listing is dated October 16, 2000, and includes estimated expenditures to private school students for the following services: therapy services, speech/language services, teaching services, testing materials, transportation, and the expense of conducting three year re-evaluations. The estimated total cost for these services is $60,670.00. The amount of expenditures the public agency anticipates spending for the current school year for private school students exceeds the federal requirement by $39,661.79.

4. Page eleven of the IEP dated October 23, 2000, indicates the student's teacher of record shall consult two times per month with the private school teacher for fifteen minutes each time. The duration of the IEP is from October 24, 2000, through June 7, 2001. The director provided a telephone/contact log which reflects the student's teacher of record has only had telephone contact with the private school teacher on five occasions since October 24, 2000. In addition, these telephone contacts were not conducted on a semi-monthly basis. The director acknowledges that the student's teacher of record failed to consult two times per month with the private school teacher for fifteen minutes each time as required by the student's IEP.

CONCLUSIONS:

1. Finding of Fact #2 reflects that the school made available special education and related services to a student with a disability who has been unilaterally enrolled in a private school by the parent. Therefore, no violations of 511 IAC 7-19-1(b),(f), and (g) are found.

2. Finding of Fact #3 indicates that the school expended at least an amount that is the same proportion of the public agency's total subgrant under 20 U.S.C. 1411(g) as the number of private school students with disabilities who are three years of age, but less than twenty-two years of age residing in its boundaries is to the total number of students with disabilities of the same age range. Therefore, no violation of 511 IAC 7-19-1(j) is found.

3. Finding of Fact #4 reflects that the student's teacher of record failed to consult two times per month with the private school teacher for fifteen minutes each time as required by the student's IEP dated October 23, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found. The director proposes the following corrective action in her written response:
   a. the teacher of record will consult with the private school teacher on a weekly basis beginning the week of April 9, through June 1, 2001; and
   b. a memorandum will be issued on April 9, 2001, to all special education school personnel in the school corporation outlining their responsibility to provide services to students in private

schools in accordance with the agreed upon IEP. A copy of the memorandum was submitted to the Division.

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 Frankton-Lapel Community Schools and Hamilton-Boone-Madison Special Services shall:

1. carry out the proposed corrective action specified in Conclusion #3a and #3b and shall submit a statement to the Division no later than May 4, 2001, indicating that the proposed April 9th memorandum was issued to all special education personnel in the school corporation. Submit to the Division no later than June 15, 2001, a copy of the teacher of record's telephone log verifying that weekly telephone calls to consult with the private school teacher for fifteen minutes each time have been made.

2. submit a letter of assurance to the Division no later than May 4, 2001, which ensures all IEPs developed for the student will be implemented as written. The letter of assurance shall be signed by the student's teacher of record and the director.

DATE REPORT COMPLETED: April 9, 2001