

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1896.02
COMPLAINT INVESTIGATOR: Bridget Hand
DATE OF COMPLAINT: March 21, 2002
DATE OF REPORT: April 26, 2002
REQUEST FOR RECONSIDERATION: No
DATE OF CLOSURE: June 6, 2002

COMPLAINT ISSUES:

Whether the Elkhart Community Schools violated:

- **511 IAC 7-25-6 by failing to conduct a re-evaluation every 36 months.**
- **511 IAC 7-25-7 by failing to conduct additional evaluations within 60 instructional days of the date of the parent's written consent.**
- **511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:**
 - a. **failing to implement goals and objectives; and**
 - b. **failing to report progress to the parent as required.**
- **511 IAC 7-27-3(a)(2) by failing to include the student's teacher of record in case conference committee meetings.**
- **511 IAC 7-27-2 and 511 IAC 7-17-3 by failing to provide the parent with adequate notice of the CCC meetings.**
- **511 IAC 7-27-5 by failing to provide the parent with a copy of the CCC report no later than ten business days after the date of the CCC meeting.**

An extension of time was granted for this report until April 26, 2002, because the school's spring break prevented the school from sending documentation in response to the allegations by the original deadline.

FINDINGS OF FACT:

1. The student (the "Student") is eight years old and eligible for special education and related services as a student with a moderate mental disability.
2. The Student's previous educational evaluation was completed on March 19, 1999. The local director acknowledges that the re-evaluation was due in March, 2002. However, the Case Conference Summary Report/IEP completed on May 11, 2001, shows that the re-evaluation is due on June 2, 2003. Therefore, there is no discussion in May 11, 2001, Case Conference Summary Report/IEP regarding the Student's need for a re-evaluation.
3. On October 30, 2001, the parent requested, in writing, an additional educational evaluation.
4. The additional evaluation was completed on March 13, 2002. The parent received a portion of the psychological evaluation on March 13, 2002. The remainder of the psychological report was not received in its entirety until March 29, 2002. There were 81 school days between October 30, 2001, and March 13, 2002.

5. The school states that, to date, there has not been a CCC meeting to discuss the results of the most recent evaluation. The parent received a letter with the portion of the psychological evaluation received on March 15, 2002, that stated the school would contact parent to schedule a CCC meeting to discuss the results of the psychological evaluation. This local director states the next CCC will be held in May, 2002, as this is the time of expiration of the current IEP.
6. The May 11, 2001, IEP includes a goal that the Student will "improve self-management skills." Objectives for this goal include developing bathroom skills. The parent asserts that the objectives for bathroom skills are not being implemented. The teacher of record reports that the objectives are being implemented, but the school did not provide any written records to document actual implementation of these objectives. The school has not provided ongoing progress reports to the parent on this goal and objectives.
7. The May 11, 2001, IEP includes a goal that the Student will "improve his pre-academic skills in language arts, reading and math." Objectives for the math portion of this goal include naming the value of coins and counting from 1-50. The parent asserts that these objectives are not being implemented. The teacher of record reports that the objective for naming the value of coins is not being worked on and that the student can count to 25, but the school did not provide any written records to document actual implementation of these objectives. The school has not provided ongoing progress reports to the parent on this goal and objectives.
8. The May 11, 2001, IEP includes a goal that the Student will "improve fine motor skills." An objective for this goal includes desensitizing mouth area. The parent asserts that this objective is not being implemented. The teacher of record reports that they work on oral motor skills with a toothbrush or suckers, but the school did not provide any written records to document actual implementation of this objective. The school has not provided ongoing progress reports to the parent on this goal and objective.
9. The May 11, 2001, IEP states that progress toward goals will be reviewed with grade cards. The parent asserts that she received one grade card this year but it did not indicate the student's progress on identified goals and then later received two progress on goals reports without grade cards. The school states they reviewed goals and objectives with the parent orally on October 19, 2001, and also shared progress reviews with the parent on February 12 and March 29, 2002.
10. The Student's teacher of record signed as a participant on the May 11, 2002, Case Conference Summary Report/IEP.
11. The Student's teacher of record signed as a participant on the June 1, 2001, Case Conference Summary Report/IEP. The teacher of record on June 1, 2001, was different than the teacher of record on May 11, 2001.
12. A Notice of Case Conference was sent to parent for a CCC meeting on either October 19, Or November 2, 2001. The parent was to choose the best date and return the notice by October 17, 2001. The parent signed and dated the notice on October 17, 2001. The school states this conference was held on October 19, 2001. The Notice of Case Conference listed the expected participants for a CCC meeting as set forth in 511 IAC 7-27-2(d) and 511 IAC 7-27-3(a). The school states that this conference was a parent/teacher conference rather than a CCC meeting and that there is no documentation of the participant's signatures. The parent states that in addition to herself; the TOR, the principal and the Special Education Supervisor were present at this CCC meeting.

13. A Notice of Case Conference was sent to parent for a CCC meeting on November 7, 2001. The parent signed that she could not attend. This signature was dated November 4, 2001. The parent states that on November 7, 2001, the CCC meeting was changed to November 8, 2001, and again she advised she could not attend.
14. On February 11, 2002, the parent was notified by a Notice of Case Conference of a CCC meeting to be held on February 12, 2002. Despite the limited notice, the parent attended the CCC meeting. The Notice of Case Conference listed the expected participants for a CCC meeting as set forth in 511 IAC 7-27-2(d) and 511 IAC 7-27-3(a). The school states this was a parent/teacher conference rather than a CCC meeting and that there is no documentation of the participant's signatures. Neither the parent nor the school has identified who was present for this CCC meeting.
15. The parent signed agreement with the May 11, 2001, CCC Summary Report/IEP on the same date. The school states that mother was given a copy of the CCC Report/IEP at that time. The parent acknowledges that she has a copy of the May 11, 2002, CCC summary Report/IEP, but is unclear as to what date she received it. As the school states that the conferences held on October 19, 2001, and February 12, 2002, were parent/teacher conferences and not CCC meetings as the notices indicate, that there were no CCC Summary Reports/IEPs generated at those meetings.

CONCLUSIONS:

1. Findings of Fact #2, #4, and #5 reflect that, although the School was aware the re-evaluation was due in March 2002, the CCC Summary Report/IEP completed by the School indicates a due date in 2003. There was no review of existing data by the case conference committee to determine if a re-evaluation was necessary. Although an additional evaluation was completed within the timeline for the re-evaluation, it does not substitute for the re-evaluation. Therefore, a violation of 511 IAC 7-25-6 is found.
2. Findings of Fact #3, #4, and #5 show that there were more than 60 instructional days between the date the parent requested the evaluation, in writing, and the date the evaluation was completed. Further, no case conference committee meeting has been held. Therefore, a violation of 511 IAC 7-25-7 is found.
3.
 - a. Findings of Fact #6, #7, and #8 reflect that the school has not demonstrated that it has implemented all goals and objectives from the May 11, 2001, Case Conference Summary Report/IEP as they have not submitted documentation of specific records to show how the goals and objectives were implemented.
 - b. Findings of Fact #6, #7, #8, and #9 show that the school has not provided progress reports to parents at the time of each grade card.
Therefore, a violation of 511 IAC 7-27-7(a) is found.
4. Findings of Fact #10, #11, #12, and #14 reflect that the teacher of record was present at the CCC meetings held on May 11, 2001, and June 1, 2001. Although the School considers the meetings on October 19, 2001, and February 12, 2002, to be parent-teacher conferences, the notice it provided to the parent indicated that the meetings would be CCC meetings and identified the participants required to constitute a CCC. From the parent's report, the participants at the October 19 meeting included those individuals necessary for a CCC meeting. However, there is no documentation from either the October 19 or February 12 meeting to indicate that the Student's TOR was present. Therefore, a violation of 511 IAC 7-27-3(a)(2) is found.

5. Findings of Fact #13 and #14 show that in one instance the parent signed the Notice of Case Conference, stating she could not attend, three days before the date the conference was scheduled. In another instance, the parent received the Notice of Case Conference on the date prior to the CCC being held, but was able to attend. This did not allow for change in time or place, if necessary. Therefore, a violation of 511 IAC 7-27-2 and 511 IAC 7-17-3 is found.
6. Finding of Fact #15 shows that the parent received a copy of the May 11, 2001, IEP at the CCC meeting. The school states that additional case conference committee meetings were actually parent/teacher conferences and there was no documentation of such meetings to be provided to the parent. However as Conclusion #4 has determined the October and February meetings to be CCC meetings, a violation of 511 IAC 7-27-5 is found.

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

CORRECTIVE ACTION:

The Elkhart Community Schools shall:

1. Immediately, but no later than May 10, 2002, reconvene the case conference committee to review the evaluation results for the student and determine compensatory services necessary for the Student to gain progress on the goals and objectives that have not been properly implemented. A copy of the Student's CCC Summary Report/IEP indicating the results, as well as the discussion of the results of the recent evaluation, along with the amount of compensatory services decided by the case conference committee shall be submitted to the Division no later than May 24, 2002.
2. Conduct in-service training for:
 - a. all special education teachers, administrators, and school psychologists regarding the requirements for completing re-evaluations. This in-service must contain information on all requirements under 511 IAC 7-27-6 as well as how Elkhart Community Schools will ensure that accurate dates of when student's re-evaluations are due will be included at each case conference committee; and
 - b. all teachers of record regarding their responsibility to provide progress reports to parents at the intervals identified in the student's IEP and that the progress report must describe the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the 12-month period.Documentation, in the form of the in-service training agenda, materials submitted, and a signature list of all participants shall be submitted to the Division no later than June 3, 2002.
3. Review, and if necessary, revise policies and procedures to ensure that notices of meetings sent to parents reflect the actual purpose of the meeting. A Notice of Case Conference should not be utilized when the purpose of the meeting is a parent-teacher conference. Send a written memorandum to all teachers and administrators regarding the use of such notices, identifying the differences between a CCC meeting and a parent-teacher conference (required participants for a case conference committee meeting, providing adequate notice to parents of case conference committee meetings, and providing the parent with a copy of the case conference committee report no later than ten business days after the date of the case conference committee meeting). An assurance statement that the school's procedures have been reviewed and a copy of the memorandum, along with a list of all recipients, shall be submitted to the Division no later than May 24, 2002.

DATE REPORT COMPLETED: April 26, 2002

