

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1940.02
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	August 19, 2002
DATE OF REPORT:	September 20, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 30, 2002

COMPLAINT ISSUES:

Whether the Gary Community School Corporation violated:

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written report of the case conference committee (CCC) meeting and IEP within 10 business days of the date of the CCC meeting convened on May 16, 2002.

511 IAC 7-27-5(a) by failing to correctly indicate the purpose of the CCC in the written report of the CCC meeting convened on May 16, 2002.

511 IAC 7-27-6(a)(1) by failing to include a statement of the student's present levels of educational performance including how the student's disability affects the student's involvement and progress in the general education curriculum.

511 IAC 7-27-6(a)(2) by failing to include a statement of measurable annual goals that describe what the student can be expected to achieve within a 12-month period, including benchmarks or short-term objectives.

511 IAC 7-27-3(a) by failing to include the student's teacher of record or a general education teacher in the CCC meeting convened on May 16, 2002.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, failing to provide the following services that were included in the narrative of the CCC report from April 26, 2002:

- a. failing to provide a one-to-one paraprofessional to be with the student on the bus and in the classroom;
- b. failing to assist the parent with necessary paperwork for Medicaid waiver and other disability/rehabilitation services; and
- c. failing to have the physical therapist evaluate the student for use of a helmet.

511 IAC 7-27-4(c) by failing to ensure the CCC considered:

- a. strategies, including positive behavioral interventions and supports, to address the student's behavior that impedes the student's learning or that of others as indicated in the IEP of May 16, 2002; and
- b. the student's need for assistive technology devices and services, specifically, failing to include the GATE form as indicated in the May 16, 2002 IEP.

511 IAC 7-27-6(a)(4) by failing to include in the student's IEP an explanation of why the statewide assessment is not appropriate for the student.

On August 28, 2002, the Division conducted an on-site review, including: interviewing the Complainant and the advocate, and reviewing the student's (Student's) educational records. The principal provided the Complaint Investigator with records that were kept in the Student's cumulative record. The Student's special education file could not be located.

FINDINGS OF FACT:

1. The Student is 14 years old, and is eligible for special education and related services as a student with a severe mental disability. The Student's placement for the 2001-2002 school year was in a self-contained classroom for the severely mentally disabled. On May 2, 2002, the Student was removed from his home by Child Protection Services (CPS) and hospitalized. By way of a CHINS (Child in Need of Services) placement, on July 22, 2002, the Student was placed in a residential setting.
2. The Complainant asserts that the school did not provide a copy of the May 16, 2002, IEP during the CCC meeting, or within 10 business days of the CCC meeting, which would have elapsed on May 29, 2002. The School states that a copy of the Student's IEP was mailed to the Complainant on May 24, 2002. The School could not provide documentation to support this.
3. Page 1 of the CCC Report dated May 16, 2002, indicates that the purpose of the CCC was to conduct an Annual Case Review. The Complainant requested the CCC meeting, and contends that the purpose of the May 16, 2002, CCC meeting was an IEP Review. The School could not locate a copy of the Case Conference Notification Letter stating the purpose for the CCC meeting on May 16, 2002. A new IEP was developed indicating that the Student was hospitalized, but did not address how the School would provide required educational services to the Student.
4. The Complainant asserts that the Student's PLEPs, that were included in the May 16, 2002, IEP, are not based on current information. The School acknowledges that the Student's PLEPs were the result of information obtained prior to February 12, 2002, the last day the Student attended school before being suspended. Subsequent to the suspension, the Student attended school for two days: April 29 and May 1, 2002. The School states they were unable to gather information regarding the Student's present levels of performance due to his hospitalization on May 2, 2002.
5. The School acknowledges that the annual goals included in the May 16, 2002, IEP are not measurable, and do not describe what the Student can be expected to achieve within a 12-month period.
6. The Complainant and the advocate contend that the teacher of record (TOR) was not present at the CCC meeting on May 16, 2002; however, the School maintains that the TOR did attend the CCC meeting. The Complainant obtained a copy of the May 16, 2002, IEP from a local advocacy organization. The Complainant's copy does not include the TOR's signature as a participant at the May 16, 2002, CCC meeting; however, the School's copy of the May 16, 2002, IEP does document that the TOR did participate in the May 16, 2002, CCC meeting. The School reported that each section of the IEP form consists of carbonless paper, and is color-coded. When the sections were separated, the TOR's name may have been added to one of the signature pages, but not to all the pages that were included in that particular section of the IEP.
7. Page 8, of the May 16, 2002, IEP documents that the Student's least restrictive environment (LRE) is special education instruction for the entire day in a separate educational facility. The Student did not

participate in general education; therefore, a general education teacher was not present at the CCC meeting.

8. A case conference narrative dated April 26, 2002, states: 1) "A one-to-one paraprofessional will be assigned to work with the [Student] on the bus and in the classroom; 2) Our school social worker will help the [Complainant] complete the necessary paper work; and 3) The committee suggested that the physical therapist evaluate him for usage of a helmet." The Complainant alleges that these services were not provided. The School acknowledges these services were not provided because the student was not attending school.
9. The Complainant alleges that the School did not address the Student's behavior during the CCC meeting on May 16, 2002, and develop a BIP to document positive behavioral interventions and supports. Page 9 states that the "student is currently hospitalized. Behavior plan will be developed prior to return to school." Page 5 of the May 16, 2002, IEP documents that the student does require assistive technology devices or services, and that the GATE form needed to be administered to the Student. The School acknowledges that the Student did not receive the GATE, because of the Student's hospitalization.
10. Page 10 of the May 16, 2002, IEP addresses the Student's participation in statewide testing. The IEP documents that the Student will not take the statewide assessment, but will be administered the IASEP, an alternate assessment. A statement was not included in the IEP explaining why the statewide assessment was not appropriate for the Student.

CONCLUSIONS:

1. Finding of Fact #2 establishes that the School could not provide documentation supporting that the CCC Report/IEP was mailed to the Complainant. Therefore, a violation of 511 IAC 7-27-5(c) is found.
2. Finding of Fact #3 states that the Complainant requested the CCC meeting convened on May 16, 2002, at which time a new IEP was developed to reflect the Student's hospitalization; however, the School did not address providing special education or related services to the Student while in the hospital. The school could not provide a copy of the Case Conference Notification Letter stating the purpose for convening the CCC on May 16, 2002. Therefore, a violation of 511 IAC 7-25-5(a) is found.
3. Finding of Fact #4 documents that the School acknowledges that the PLEPs on the May 16, 2002, IEP are not based on current information. Therefore, a violation of 511 IAC 7-27-6(a)(1) is found.
4. Finding of Fact #5 establishes that the annual goals listed on the May 16, 2002, IEP were not written to describe what the Student could be expected to achieve in a 12-month period. Therefore, a violation of 511 IAC 7-27-6(a)(2) is found.
5. Finding of Fact #6 indicates that the Complainant's copy of the May 16, 2002, IEP does not contain the signature of the TOR as the School's copy does. Therefore, a violation of 511 IAC 7-27-3(a) is found.
6. Finding of Fact #7 reflects that the Student's placement was in a self-contained classroom, and that the Student did not participate in general education. Therefore, a violation of 511 IAC 7-27-3(a) is not found regarding the general education teacher as a participant in the Student's CCC.
7. Finding of Fact #8 states that the case conference narrative dated April 26, 2002, listed services to be provided to the Complainant and the Student. The School acknowledged these services were not

completed. The School did not pursue the possibility of implementing these services after the Student was hospitalized, or placed in a residential setting. Therefore, a violation of 511 IAC 7-27-7(a) is found.

8. Finding of Fact #9 establishes that the May 16, 2002, IEP states that the CCC did not develop the Student's BIP, pending the Student's return to school. The IEP dated May 16, 2002, documents that the Student required assistive technology devices or services, and the School would administer the GATE form to the Student. The School acknowledged that the GATE form was not administered to the Student to determine what assistive technology devices or services would enable the Student to be more successful in school. Therefore, a violation of 511 IAC 7-27-4(c) is found regarding the School not administering the GATE.
9. Finding of Fact #10 states that the IEP dated May 16, 2002, did not include a required statement explaining why the Student could not participate in the statewide assessment. Therefore, a violation of 511 IAC 7-27-6(a)(4) is found.

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

CORRECTIVE ACTION:

The Gary Community School Corporation shall:

1. Conduct an in-service to inform administrators and special education personnel of the LEA's obligation to provide educational services to students with disabilities who are placed in private or public school settings, and of the school's responsibility to participate in the development of the student's IEP. **Copies of the agenda, sign-in sheet, the name of the individual conducting the in-service, and handouts provided to the participants shall be submitted to the Division no later than October 25, 2002.**
2. Send a written memorandum to building administrators and all special education personnel reminding them that:
 - a. The School is responsible for providing a copy of the written report of the CCC meeting and IEP within ten business days of the date the CCC convened;
 - b. The School is responsible for indicating the purpose of the CCC meeting in the written report of the CCC meeting;
 - c. The School is responsible for ensuring that a student's present levels of educational performance in the IEP accurately reflect the Student's progress;
 - d. The School is responsible for ensuring that a statement of measurable annual goals, including short-term objectives, be included in a student's IEP; and
 - e. The School must ensure that all required CCC participants are in attendance at a CCC meeting and that the attendance is accurately reported on all necessary forms.**A list of the individuals receiving the written memorandum shall be submitted to the Division no later than October 18, 2002.**
3. Reconvene CCC to address the Student's IEP, including the Student's current placement, and the required services/supports to meet the Student's needs. The CCC needs to develop a BIP that includes positive behavioral interventions and supports for the Student. The Student's IEP needs to include a statement explaining why the Student is not taking the ISTEP. **A copy of the IEP shall be submitted to the Division no later than October 18, 2002.**