

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1946.02
 COMPLAINT INVESTIGATOR: Sandie Scudder
 DATE OF COMPLAINT: September 4, 2002
 DATE OF REPORT: October 4, 2002
 REQUEST FOR RECONSIDERATION: no
 DATE OF CLOSURE: October 25, 2002

COMPLAINT ISSUES:

Whether the Fort Wayne Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education plan (IEP) as written, specifically, by

- a. failing to address the student's measurable annual goals; and
- b. failing to implement the student's behavioral intervention plan (BIP).

FINDINGS OF FACT:

1. The student (Student) is 8 years old, and is eligible for special education and related services as a Student with multiple disabilities, orthopedic impairment, and a communication disorder.
2. The Complainant alleges that during the 2001-2002 school year, the School did not implement the Student's measurable annual goals included in the March 28, 2001, IEP which was reviewed on May 31, 2001. The Complainant identified two specific instances in which the IEP was not followed.
3. The Complainant alleges that the Student was transported by wagon within the school setting, instead of using the Student's walker or walking the Student with physical assistance. The Complainant did not state any specific instances when the wagon was used at inappropriate times. The IEP dated March 28, 2001, lists special instructions for the Student, including: "[Student] is to use walker during day: on field trips mother will send in stroller." The physical therapy goal lists a benchmark stating that the Student will walk to specials using as little assistance as possible. The TOS reported that the wagon was used when transporting the Student a lengthy distance; otherwise, the Student used the walker or walked with physical assistance.
4. The classroom teacher for the 2000-2001 school year stated, in the IEP dated March 28, 2001, that the Student was experiencing success with the WOLF communication system. The Complainant alleges that the Student did not use the WOLF communication system during the 2001-2002 school year. However, the March 28, 2001 IEP developed for the 2001-2002 school year does not list a goal requiring the Student to use the WOLF communication system.
5. The Complainant alleges that a timer was not being used consistently with the Student as required by the BIP developed on February 1, 2002, to address behavior in the classroom and therapy areas, specifically, throwing objects. When the timer sounded, the Student received a reward. As the time on task increased for the Student, and throwing decreased, the timer was set for longer work times

followed by rewards. The BIP was reviewed on March 28, 2002, and the timer was applied to other goals listed on the March 28, 2001, IEP. In the March 28, 2002, BIP review, the OT reported that the use of a timer had been phased out as the student could wait until the end of a task to take a break. By the end of the school year, the Student was able to stay on task for up to eight minutes without throwing objects.

CONCLUSIONS:

1. Finding of Fact #3 establishes that the Student's IEP dated March 28, 2001, does not stipulate that the Student is to use the WOLF communication device during the 2001-2002 school year. Therefore, a violation of 511 IAC 7-27-7(a) is not found with respect to the annual goals not being implemented.
2. Finding of Fact #4 reflects that the wagon was used with the Student only when being transferred a long distance within the school setting. The Complainant did not state specific instances when the wagon was inappropriately used. Therefore, a violation of 511 IAC 7-27-7(a) is not found with respect to inappropriate use of the wagon.
3. Finding of Fact #5 reflects that the timer was not used for all activities, and was phased out of the Student's program after success was noted and the Student was responding to awards that were provided. However, information stating how the timer would be phased out was not included in the Student's BIP. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the lack of information included in the BIP.

The 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 Fort Wayne Community Schools shall:

Convene the CCC and determine if the timer is to be continued as a requirement of the BIP. If so, the CCC shall determine how and when the timer shall be used. **A copy of the BIP shall be submitted to the Division no later than October 18, 2002.**