

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1952.02
 COMPLAINT INVESTIGATOR: Sandie Scudder
 DATE OF COMPLAINT: September 16, 2002
 DATE OF REPORT: October 16, 2002
 REQUEST FOR RECONSIDERATION: no
 DATE OF CLOSURE: November 7, 2002

COMPLAINT ISSUES:

Whether the Gary Community Schools violated:

511 IAC 7-27-5(c) by failing to provide the parent with a copy of a case conference committee (CCC) report within ten business days after the date of a CCC meeting.

511 IAC 7-27-6(a)(7)(B) by failing to regularly inform the parent of 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 within a twelve month period.

511 IAC 7-27-4(c)(3) by failing to utilize the CCC to develop a behavioral intervention plan (BIP) and consider other strategies or supports to address the student's needs.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, by failing to implement special education and related services that support the student's progress toward the annual goals.

511 IAC 7-25-3(j) by failing to ensure that information obtained from various sources, including information provided by the parent, is documented and considered by the CCC in determining whether the student has a disability and is eligible for special education and related areas.

FINDINGS OF FACT:

1. The student (Student) is 15 years old, and is eligible for special education and related services as a student with a severe mental disability.
2. The Complainant alleges that the school (School) has not provided copies of the CCC Report/IEPs. The CCC Report/IEP dated January 16, 2002, documents that the CCC Report/IEP was sent or given to the Complainant on January 27, 2002; however, the letter of response states that the document was mailed to the Complainant on January 28, 2002. The School could not provide documentation supporting that the Complainant did receive the CCC Report/IEP dated January 26, 2001.
3. The Complainant alleges that the School did not regularly provide information regarding the Student's progress on the annual goals written in the Student's IEP. Page 7, of the January 26, 2001, and the January 16, 2002, IEPs, does not document how or when the parent will be informed of the Student's progress. The School submitted progress reports for the 2000-2001, and 2001-2002 school years;

however, the progress reports do not address the Student's achievements on the annual goals listed in the January 26, 2001, and January 16, 2002 IEPs. The January 26, 2002, IEP does not document that the goals were evaluated.

4. The Complainant states that the Student did not have a behavioral implementation plan in effect to address the Student's inappropriate behavior. The School states that a BIP was not required as the behaviors displayed by the Student were commensurate with her mental age. The IEP dated January 16, 2002, does not include a BIP, but does state that the Student "requires individual/small group supervision at all times for her safety." The Complainant reports that the Student will run away if not supervised. A Special Factor listed on the IEP, "Does behavior impede student learning or the learning of others?" was not marked "yes" or "no." The IEP dated January 16, 2002, does not address other strategies or supports to address the Student's behavioral concerns.
5. The Complainant alleges that the School failed to provide the Student with special education and related services to enable the Student to progress in the educational environment, but did not cite specific examples. The teacher of service (TOS) acknowledges that not all of the annual goals on the IEP were addressed during the 2001-2002 school year. The TOS did not confer with the CCC regarding the annual goals. In addition, the School failed to utilize the CCC to resolve the discrepancy in the IEP dated January 16, 2002, which documents that the student has a communication need that requires speech and language instruction, but also states that the Student was dismissed from speech therapy.
6. The Complainant alleges that the CCC failed to discuss and document information obtained from other sources, including the Complainant, on January 26, 2001, and January 16, 2002. The Student receives private speech services and is seen by a behavioral specialist. The Complainant reported that it has been difficult to arrange a meeting between the School, and the private speech therapist and behavioral specialist, in order to share information that would benefit the Student in the educational environment. The Complainant did not document specific dates of requested CCC meetings. The School states that the January 16, 2002, CCC reviewed information relevant to placement and related services.

CONCLUSIONS:

1. Finding of Fact #2 reflects that the IEP dated January 16, 2002, documents that the School provided the Complainant with a copy of the IEP on January 27, 2002. There is no documentation to support that the School provided the Complainant with a copy of the IEP dated January 26, 2001. Therefore, a violation of 511 IAC 7-27-5(c) is found.
2. Finding of Fact #3 establishes that the page 7 of the January 16, and the January 26, 2002, IEPs does not state how or when the Complainant will be informed regarding the Student's progress. The progress reports, submitted by the School, for the school years 2000-2001, and 2001-2002, do not describe the Student's progress on the annual goals. Therefore, a violation of 511 IAC 7-27-6(a)(7)(B) is found.
3. Finding of Fact #4 establishes that the Student did not have a BIP included in the January 16, 2002, IEP, and according to the IEP, the special factor of whether or not the Student's behavior impedes her learning was not addressed. In addition, no other CCC notes indicate discussion of behavior. Therefore, a violation of 511 IAC 7-27-4(c)(3) is found.
4. Finding of Fact #5 indicates that not all of the Student's annual goals on the January 16, 2002, IEP, were implemented. The School did not use the CCC to review or revise the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found.

5. Finding of Fact #6 indicates that the CCC reviewed relevant information to the Student's placement and related services, but does not state whether information from outside sources was documented and considered by the CCC. Therefore, a violation of 51 IAC 7-25-3(j) is found.

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 Gary Community Schools shall:

The School convened a CCC meeting on October 7, 2002, and developed an IEP for the Student. The School shall reconvene the CCC, and determine if the IEP meets the following criteria:

- The IEP includes measurable goals that describe what the student can be expected to accomplish in a 12-month period, including short term objectives;
- The IEP includes how and when the Student's parents will be regularly informed, at least as often as parents are informed of their nondisabled student's progress, of the Student's progress on goals listed in the IEP, and the extent to which that progress is sufficient to enable the student to achieve the goals within a twelve month period;
- The IEP includes a BIP if the CCC determines, after conducting an FBA, that a BIP is appropriate for the Student; and
- The IEP documents how the teacher of record will monitor the implementation of the IEP.
- The CCC needs to address the communication needs of the Student, and determine whether and to what extent speech therapy will be provided.

The School shall consider the information from the Complainant regarding private support services. The CCC shall send a copy of the CCC Report/IEP to the Complainant via certified mail. **A copy of the CCC Report/IEP and a copy of the certified mail receipt shall be submitted to the Division no later than November 1, 2002.**