

Beech Grove City Schools
Indiana State Educational Agency

CP-115-2020

July 16, 2020

Complaint investigation report
Complaint issues

1. Did Beech Grove City Schools (the School) implement the Student's individualized education program (IEP) as written? Specifically, did the Student receive support in the general education classroom for 120 minutes per week by a special education assistant between January of 2020 and the end of the school year? 511 IAC 7-42-8(b)

Findings of fact

1. The Student has been determined eligible for special education and related services.
2. The Student's IEP effective between January of 2020 and the end of the school year required a special education assistant to provide academic support in the general education classroom for 120 minutes per week.
3. A master-schedule provided by the School showed a special education assistant assigned to work with the Student from 11:15 a.m.-11:55 a.m. daily in Room 101. The School noted that this schedule was not updated despite the change in schedule that occurred in January of 2020.
4. The Student rotated between three different classrooms throughout the school day. A schedule change occurred sometime in January of 2020.
5. In addition to the master-schedule provided, notes from the assistant listed on the master-schedule and assigned to work in Room 101 support the existence of that assistant working with the Student in early January of 2020. During the week of January 6, 2020 through January 10, 2020, the assistant was in Room 101 for a total of 200 minutes. Notes from the same assistant also indicate that on January 13, 2020, the assistant worked with the Student in Room 101 for 45 minutes. The assistant does not have any additional notes documenting that she was working with the Student additional days or times in the classroom.
6. A Summary of Service Time Based on Notes (summary) document created by the School following the filing of the complaint indicates that the assistant stopped working with the Student on January 13, 2020. The summary document next features a special education teacher working with the Student at 8:30 a.m. on Mondays, Tuesdays, Thursdays, and Fridays and the written response indicates each session was 30 minutes in length.
7. Notes from the special education teacher indicate that during the week of January 20, 2020 through January 24, 2020, the special education teacher worked with the Student for 40 minutes. During the week of January 27, 2020 through January 31, 2020, the special education teacher

worked with the Student for 60 minutes. During the week of February 3, 2020 through February 7, 2020, the special education teacher worked with the Student for 105 minutes.

8. The School acknowledged in responsive documentation that due to a miscommunication following schedule changes in the building, a special education assistant or special education teacher did not work with the Student weekly between February 10, 2020 and February 27, 2020 in the general education classroom.

9. The Student's attendance report documents that the Student was absent from school on February 27, 2020 for an appointment. The Student returned to school on March 2, 2020, but was sent home by the school nurse and remained absent through March 12, 2020 due to illness.

10. On March 12, 2020, Indiana Governor Eric J. Holcomb announced a waiver option for Indiana schools related to the COVID-19 virus pandemic: "Effective immediately, school corporations will be provided with a 20-day waiver of the required 180 instructional days for use as needed for the remainder of the academic year. The waived days do not need to be used consecutively and can be leveraged as needed." Governor Holcomb also stated, "If a school corporation has evidence of community spread or a confirmed positive test for coronavirus, officials should consult with the Indiana Department of Education and the Indiana State Department of Health for additional steps. Schools should plan now for broader closures, including eLearning and remote classroom options." <https://calendar.in.gov/site/gov/event/gov-holcomb-announces-new-steps-to-protect-public-from-covid-19/>.

11. On March 13, 2020, the Indiana Department of Education (IDOE) issued a memorandum in response to the Governor's announcement, "IDOE will consider school closures due to the coronavirus to meet the threshold of an 'extraordinary circumstance.' School corporations may receive a waiver of up to twenty (20) instructional days in order to respond to COVID-19. These days may be used consecutively or as needed by school corporations." https://www.doe.in.gov/sites/default/files/news/beth-march-13-covid-19-waivers.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

12. The School closed its buildings as a result of the Governor's order starting March 13, 2020.

13. On March 19, 2020, Governor Holcomb issued an executive order closing and ceasing all in-person instruction at public and nonpublic schools until May 1, 2020. https://www.in.gov/gov/files/EO_20-05.pdf.

14. The same day, IDOE issued a written release acknowledging the Governor's order and provided this consideration to schools, "As the COVID-19 pandemic continues to shift, the current 20-day waiver may not adequately address the needs of local districts. Therefore, the IDOE will work with individual districts and schools to determine the total amount of instructional waiver days necessary." <https://www.doe.in.gov/sites/default/files/covid-19/idoe-covid-19-update-3192020.pdf>.

15. On March 19, 2020, the School's superintendent announced that spring break would occur between March 23, 2020 and April 3, 2020. eLearning would then begin April 6, 2020 through May 1, 2020, in light of the Governor's order that all schools be closed through May 1, 2020. eLearning continued through the end of the school year throughout the State.

16. In addition to the general education materials presented to the Student through eLearning, the Student had a number of individuals contacting the Student and Student's parent during eLearning from the special education department.

17. The Student's teacher of record (TOR) was in contact with the Student and Student's parent through the end of the school year. The TOR mailed a letter with contact information, access to flipgrid class, and a one page self-advocacy sheet on April 3, 2020 to the Student. On April 7, 2020, the TOR texted the Student's parent. On April 16, 2020, the Student's parent was emailed, along with other parents (all blind-carbon copied), about the flipgrid info for the class and a game idea. Additional emails were sent to the parents by the TOR, including the Student's parent, on: April 24, 2020, April 29, 2020, May 5, 2020, and May 19, 2020.

18. The Student's teacher of service (TOS) was in contact with the Student's parent on April 9, 2020 via phone to see how the Student was adjusting to eLearning and if any help was needed. The TOS contacted the Student's general education classroom teacher following this phone call. The TOS reached out via text on April 15, 2020 to check in on how eLearning was going and see how the Student was doing. A handwritten letter was sent home on April 21, 2020 to check in with the Student's family and a farewell poem was sent home on May 19, 2020 to close out the school year.

19. A special education assistant was also in contact with the Student on April 15, 2020 and April 17, 2020 by email. The assistant, who had also worked with the Student in early January of 2020, asked the Student to reply to emails to verify she was receiving them, asked what the Student had been doing while at home, and asked about what the Student was reading.

20. On May 24, 2020, the Complainant sent an email to a TOS for the Student. The Complainant stated that she remembered speaking to the TOS about not having anyone from special services assisting the Student in her classroom following first semester. The TOS did not reply confirming that to be the case.

Conclusions

1. An IEP must be implemented as it is written. 511 IAC 7-42-8(b). Finding of Fact (FF) #2 demonstrates that the Student's IEP required a special education assistant to provide academic support for 120 minutes a week. FF #5 demonstrates that 120 minutes of an assistant providing academic support did not occur the week of January 13th through 17th. FFs #6- #7 demonstrate that 120 minutes of an assistant providing academic support was also not provided January 21st through 24th; January 27th through February 1st; or February 3rd through February 7th. In addition, FF #8 indicates that there were not any minutes of service provided by a special education assistant for 3 weeks, prior to the Student's absences as noted in FF #9. FFs #10 through #19 document communication between the School and the Student or Student's parent

and attempts to provide support while eLearning was occurring. FFs #10 through #19 do not demonstrate 120 minutes of academic support offered or provided by an assistant or special education teacher weekly, although FFs #16, #17, #18, and #19 document school personnel offering support. Because there were multiple weeks where 120 minutes of academic support provided in the general education setting was not demonstrated, a violation of 511 IAC 5-42-8(b) is found.

The Department of Education, Office of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.

1. Convene a case conference committee (CCC) meeting to determine compensatory services owed to the Student in the form of academic support by a special education assistant in light of time where 120 minutes of academic support was not provided or documented in the general education setting weekly. The CCC meeting shall occur by September 17, 2020 and a copy of the IEP shall be provided to the Complaint Investigator no later than October 1, 2020.
2. Draft a memorandum to special education administration, teachers-of-record, and special education assistants regarding the requirement of 511 IAC 7-42-8(b) and implementing the IEP as written. A draft of the memorandum is due by September 17, 2020. Once approved, documentation demonstrating the distribution of the memorandum to the required personnel shall be provided to the Complaint Investigator no later than October 1, 2020.

DATE REPORT COMPLETED: July 16, 2020