

COMPLAINT INVESTIGATION REPORT

COMPLAINT NUMBER: CP-098-2015
COMPLAINT INVESTIGATOR: Traci Tetrick
DATE COMPLAINT FILED: May 19, 2015

COMPLAINT ISSUES:

Did the Gary Community School Corporation (“the School”) implement the Student’s individualized education program (“IEP”) as written? Specifically:

- a) Did the School provide periodic reports on the Student’s progress toward goals, in alignment with report cards?
- b) Was the Student provided additional or longer breaks during assessments administered in the content areas of algebra, language arts, and biology?
- c) Was the Student provided with extended testing time for test sessions in algebra, language arts, and biology?
- d) Did the Student have the use of a calculator during test sessions identified as noncalculator sessions in algebra, language arts, and biology?
- e) Was the Student provided preferential seating during assessments administered in the content areas of algebra, language arts, and biology?
- f) Was the Student tested in a small group setting during assessments administered in the content areas of algebra, language arts, and biology?
- g) Did the Student receive sixty (60) minutes of direct services per day in the special education setting for the content area of algebra? 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 dated June 13, 2014 was the IEP in effect throughout the 2014-15 school year. Services, accommodations, and progress reports required by this IEP included, but were not limited to, the following: (a) provision of periodic reports on the Student’s progress toward his reading and math goals in alignment with report cards; (b) additional breaks during assessments in algebra and language arts, and longer breaks between sessions in biology; (c) extended testing time for test sessions in algebra, language arts, and biology; (d) use of a calculator on all testing sessions identified as noncalculator sessions in algebra, language arts, and biology; (e) preferential seating for test sessions in algebra, language arts, and biology; (f) testing in a small group setting in algebra, language arts, and biology; and (g) sixty (60) minutes of direct services per day in the special education setting. The narrative that accompanies the direct services listed in the IEP states, “Algebra I is needed to pass his core 40 classes for graduation.”
3. Prior to the development of the June 13, 2014 IEP, the last IEP in effect was an IEP dated February 8, 2013 (“the prior IEP”). All of the reports, services, and accommodations listed in Finding of Fact #2 as required by the 2014 IEP were also included in the prior IEP; however, the number of minutes of direct services in the special education setting was sixty-two (62) per day, instead of sixty (60) per day in the prior IEP. The narrative accompanying the direct services listed in the prior IEP contains the same statement as the 2014 IEP, “Algebra I is needed to pass his core 40 classes for graduation.”
4. The School issues report cards at the end of each trimester. End of trimester dates for the 2014-15 school year were: November 14, 2014; February 27, 2015; and June 9, 2015. The Complainant has not received any report cards, or any progress reports, during the past year.

5. Data Points reports, which are progress monitoring documents generated and maintained by the School electronically in Indiana IEP (“IIEP”), show generally that the Student was making average grades and passing his math and reading courses on November 12, 2014, as well as February 26, 2015; however, these progress notes for November 12, 2014, and February 26, 2015, were included retroactively in a Data Points report that was not generated until March 20, 2015. The Data Points Report generated on June 8, 2015 did not contain any progress data on the 2014-15 math and reading goals.
6. The Student was not enrolled in algebra during the 2014-15 school year; he passed algebra with a final trimester grade of B in 2013-14. He also passed the algebra end of course assessment (“ECA”) during the 2013-14 school year. In 2014-15 the Student was enrolled in geometry. The Student’s grade in geometry, as reflected in an IEP developed on May 26, 2015, was a D.
7. The Student was not enrolled in biology or any other science course during the 2014-15 school year. He was enrolled in, and failed, biology during at least one trimester of the 2013-14 school year.
8. The School provided the Student with the following accommodations during the administration of the English 10 ECA in 2015: additional breaks, extended time, access to a calculator, preferential seating, and the option to be tested in a small group setting. The Student passed the English 10 ECA during the 2014-15 school year.
9. Other than documentation showing the provision of accommodations on the English 10 ECA, the School submitted no evidence showing that it provided any of the requisite testing accommodations on a regular basis in algebra (or any other math course), language arts, or biology.
10. During the third trimester, the Student was present thirty-five (35) days and absent twenty-eight (28) days. The School reported that it did not provide direct services to the Student on the days he was absent.
11. The School did not submit any evidence showing that sixty (60) minutes of direct services were provided to the Student on the days that he attended school.

CONCLUSIONS:

Findings of Fact #2 & 3 lists services, accommodations, and reports required by the Student’s IEPs that were in effect during the 2013-14 and 2014-15 school years. Findings of Fact #4-11 address whether the School implemented the Student’s IEP as written, and based on those facts:

- a) The School did not provide periodic reports on the Student’s progress toward goals in alignment with report cards.
- b) The School did not provide the Student with additional or longer breaks during assessments administered in the content areas of algebra, language arts, and biology on a regular basis. Although the Student was not enrolled in algebra, having passed the course and the ECA the previous school year, it was reasonable for the Student to expect to receive the same accommodations in geometry.
- c) The School did not provide the Student with extended testing time for test sessions in algebra, language arts, and biology on a regular basis.
- d) The School did not provide the Student with the use of a calculator during test sessions identified as noncalculator sessions in algebra, language arts, and biology on a regular basis.
- e) The School did not provide the Student with preferential seating during assessments administered in the content areas of algebra, language arts, and biology on a regular basis.

- f) The School did not ensure that the Student was tested in a small group setting during assessments administered in the content areas of algebra, language arts, and biology on a regular basis.
- g) The School did not provide sixty (60) minutes of direct services per day in the special education setting for the content area of algebra.

Therefore, a violation of 511 IAC is found with regards to (a), (b), (c), (d), (e), (f) and (g).

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

CORRECTIVE ACTION:

The Gary Community School Corporation shall:

Propose an offer of compensatory services to the Student to make up for the lost educational opportunity associated with not providing the requisite testing accommodations and services in the content areas of biology and mathematics. Prior to providing this offer to the Complainant for consideration, the School shall submit the proposal to the Office of Special Education for review. The proposed offer shall be submitted to the complaint investigator **no later than June 30, 2015**, and documentation of making the offer to the Complainant, as well as a copy of the Complainant's response to this offer, shall be submitted to the complaint investigator **no later than July 10, 2015**.

Provide copies of the Student's report cards and progress reports to the Complainant by certified mail for the third trimester of the 2013-14 school year, as well as the entire 2014-15 school year. The School shall submit documentation of the provision of these documents to the complaint investigator **no later than July 10, 2015**.

Conduct an in-service training on the following Article 7 topics:

- Implementing IEPs as written; and
- Reviewing and revising the IEP at least annually to ensure that accommodations and services correspond to current goals and enrolled-in courses.

This in-service shall be attended by all teachers, all special education staff, and all administrators. A copy of the in-service training materials, as well as a sign in sheet, listing attendees by name and title, shall be submitted to the complaint investigator **no later than August 31, 2015**.

DATE REPORT COMPLETED: June 22, 2015