

## COMPLAINT INVESTIGATION REPORT

**COMPLAINT NUMBER:** CP-092-2015  
**COMPLAINT INVESTIGATOR:** Traci Tetrick  
**DATE COMPLAINT FILED:** May 7, 2015

**COMPLAINT ISSUES:**

1. Did MSD Wayne Township (“the School”) convene the case conference committee (“CCC”) within ten (10) instructional days of the enrollment date of the Student who received special education in another district within the state? 511 IAC 7-42-5(a)(4)
2. Did the School immediately provide the Student a free and appropriate public education (“FAPE”) including services comparable to those in the Student’s individualized education program (“IEP”) from the prior school until the School either: (1) adopted the Student’s IEP from the prior school; or (2) developed, adopted, and implemented a new IEP? 511 IAC 7-42-8(e)

**FINDINGS OF FACT:**

1. The Student has been determined eligible for special education and related services.
2. From August 4, 2014 to February 6, 2015, the Student had been placed in a residential treatment facility by his parents and was receiving special education and related services from another district within the state.
3. The Complainant completed and submitted documents to enroll the Student in the School on February 9, 2015.
4. On February 13, 2015 the School called the Complainant to request a copy of the most recent IEP, in order to consider what placement might constitute the least restrictive environment and to propose an appropriate transition from full time residential placement to this least restrictive environment. The Complainant was unable to provide a copy, and an electronic copy was not yet available, as the document push from the prior school district to the School had not yet occurred in Indiana IEP (“IIEP”). The School and the Complainant engaged in several more phone calls between February 13-20 with regards to the progress the Student had made at the residential placement and various options as to the appropriate placement during this transition. The School maintained detailed communication records, and these records show that the School explained to the Complainant that the usual step down transition from a residential placement was half time in the home school and half time in another school which could provide more support until a full transition to the home school occurred.
5. A move-in case conference committee meeting was convened on February 26, 2015. After approximately three hours, the CCC could not reach an agreement as to the least restrictive environment for the Student. The parties agreed to reconvene the CCC at a later date to complete the determinations necessary to develop a new IEP.
6. The School did not allow the Student to begin attending class until February 27, 2015. From February 27-March 2, 2015, the School conditioned attendance on the Student attending only a half day. The School agreed to allow the Student to begin attending on a full time basis on March 2, 2015, provided that the Complainant was “available, as needed for any major behaviors (physical aggression).” At the February 26, 2015 CCC meeting, the parties discussed compensatory services for the Student to make up for the

School's delay in allowing him to begin attending school. The parties agreed to fourteen (14) hours of compensatory services as a starting point, with the option that "the CCC could discuss if more time is needed" if the Student was not progressing.

7. The re-convened CCC was held on April 27, 2015. An IEP dated April 27, 2015 was developed, adopted and implemented based on the CCC determinations made at the April 27 meeting.
8. The School's 2014-2015 calendar shows that February 16, 2015 was a holiday.
9. The School acknowledges that it did not immediately provide the Student with services comparable to those in the Student's IEP from the prior school until the School either: adopted the Student's IEP; or developed, adopted, and implemented a new IEP.
10. The School voluntarily engaged in self-corrective action by providing fourteen hours of compensatory services to the Student by May 28, 2015, in order to make up for the failure to provide a free appropriate public education between February 10 and February 26, 2015.
11. During a June 9, 2015 phone call, the Complainant acknowledged to the complaint investigator that the Student had made progress during the spring 2015 semester and that additional compensatory services were not necessary beyond the fourteen hours the School had already provided.

## **CONCLUSIONS:**

1. Finding of Fact #2 shows that the Student had been receiving special education and related services in another district within the state until February 6, 2015. Finding of Fact #3 shows that enrollment documents were submitted on the Student's behalf on February 9, 2015. Finding of Fact #5 shows that a move-in CCC was convened on February 26, 2015, although a new IEP was not developed at that time. Excluding the February 16 holiday noted in Finding of Fact #8, February 26 was the twelfth (12<sup>th</sup>) instructional day after the February 9, 2015 enrollment date of the Student. Because the School failed to convene a CCC meeting within ten (10) instructional days of the enrollment date of the Student, who had been receiving special education in another district within the state, a violation of 511 IAC 7-42-5(a)(4) is found.
2. Finding of Fact #3 shows that the enrollment forms were submitted on the Student's behalf on February 9, 2015. Finding of Fact #6 shows that the School did not allow the Student to begin attending school until February 27, 2015, at which time attendance was unilaterally limited by the School to half days and other attendance conditions were imposed on the Complainant. Because the School prohibited the Student from attending School on the twelve (12) instructional days occurring between February 9, 2015 and February 27, 2015, the Student did not receive a free, appropriate public education on those days. However, as Finding of Fact #4 shows, the School was delaying attendance while it attempted to obtain an IEP in order to determine the appropriate placement for the Student. Moreover, Finding of Fact #10 shows that the School voluntarily took action to ameliorate this violation by providing the Student with fourteen hours of compensatory services, and Finding of Fact #11 shows that the Complainant does not believe that additional compensatory services are necessary.

Findings of Fact #7 and 9 show that the School has acknowledged not immediately providing the Student with services comparable to those required by the Student's IEP from the prior school, and that the School did not develop and implement a new IEP until April 27, 2015. Thus, a violation of 511 IAC 7-42-8(e) is found.

**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 School shall provide a letter of assurance to the IDOE, affirming that move-in special education students will be allowed to attend school without delay, and that special education and related services will be provided immediately, following enrollment of these move-in students, consistent with the requirements of Article 7. This statement must also affirm that the School will convene all move-in CCC meetings within ten (10) instructional days of the date of enrollment. This letter shall be submitted to the complaint investigator **no later than July 31, 2015.**

The School shall issue a memorandum to all special education staff and administrators, reminding them of the following compliance points related to move-in students:

- Move-in CCC meetings for newly enrolled students who have received special education elsewhere must be conducted within ten instructional days; and
- Newly enrolled students who have received special education services elsewhere must immediately be provided with FAPE, which includes the provision of services comparable to those described in the IEP from the previous school, until all the requirements of 511 IAC 7-42-8(e) & (f) can be met.

A copy of this memorandum, as well as a distribution list, shall be submitted to the complaint investigator **no later than July 31, 2015.**

**DATE REPORT COMPLETED: June 11, 2015**