

Porter Township School Corporation
Indiana State Educational Agency
CP-004-2021
August 31, 2020

Complaint investigation report
Complaint issues

1. Did Porter Township School Corp (the School) implement the Student's individualized education program (IEP) as written? Specifically:

- a) Did the Student receive speech services weekly during distance learning due to COVID-19?
- b) Did the Student have access to a whisper phone as needed during distance learning due to COVID-19? 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 case conference committee (CCC) convened on February 21, 2020 for the purpose of an annual case review and a reevaluation review.
3. The Student's IEP developed at that time included speech and language services. Specifically, services were to be provided in the speech therapy room by the speech language pathologist or assistant one time per week for thirty minutes. The IEP addressed in this section that the School participates in the eLearning Day Program, which may be utilized on a day when school is cancelled, as a planned day, or as a makeup day when a day of school was missed. In these instances, the IEP included that work may be modified to meet the IEP goals and that instruction will be provided through online materials, paper and pencil assignments, projects, etc.
4. The IEP also included as an accommodation that the Student may use a whisper phone as needed to assist with requested tasks.
5. Approximately a month later, the IEP was revised without a meeting pursuant to agreement by the School and parent. An accommodation was added which included that the Student may also be allowed to access audio books when books are available in audio format. There were no additional changes to the IEP at that time.
6. The School acknowledged that a whisper phone was not provided to the Student during the school building closure. The School explained that staff were not permitted to enter the school building and the purpose of the whisper phone was to allow the Student to hear himself read to assist with comprehension, while at the same time not disturbing other classmates.
7. 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/>.

8. 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=.

9. Starting March 16, 2020, the School began eLearning days on Mondays, Wednesdays, and Fridays and utilized Tuesdays and Thursdays for waiver days. School was out of session for spring break the week of March 23, 2020 through March 27, 2020. The last day of school was May 22, 2020. The School's calendar continued with this schedule through the last day of school.

10. 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.

11. 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/idoecovid-19-update-3192020.pdf>.

12. On April 2, 2020, Governor Holcomb issued an executive order requiring schools to provide instruction via remote learning for the remainder of the 2019-2020 school year. <https://www.in.gov/gov/files/Executive%20Order%2020-16%20Education.pdf>

13. The School utilizes Schoology for students to access educational experiences while working remotely.

14. The Student's speech language pathologist (SLP) added materials for the Student to access in Schoology on the following dates: March 16, 2020; March 31, 2020; April 21, 2020; April 28, 2020; May 5, 2020; May 12, 2020; and May 19, 2020. The SLP did not conduct live-lessons or phone calls, but posted materials with instructions on the previously mentioned dates.

15. The uploaded tasks included speech instructions, /r/ conversation tasks, various speech tasks, /r/ conversation starters, as well as conversation topics and conversation starters with a focus on /r/ sounds.

16. The Student's IEP had a goal for the Student to independently produce /r/ and /r/ blends at the spontaneous conversation level with 90% accuracy.

17. On April 1, 2020, the Student's general education teacher expressed concern to the principal about the Student's lack of participation through Schoology and missing assignments. The general education teacher also communicated with the principal about the messages sent to the Student's parent through the Bloomz app, a parent communication app. The Student's general education teacher did not receive a response.

18. The Student's SLP sent an email to the Student on April 15, 2020, requesting that the Student use the conversation sheet previously posted and record the Student answering the questions posed in that sheet, so that the SLP could listen to the r-blend sounds. The Student was asked to submit the video using Schoology. No responses to the assignments posted by the SLP were submitted by the Student through Schoology.

19. The Student is no longer attending the School and is currently enrolled elsewhere within the state of Indiana.

Conclusions

1. An individualized education program (IEP) must be implemented as written. 511 IAC 7-42-8(b)

a) Finding of Fact (FF) #3 includes a speech service one time per week for thirty minutes provided by a speech language pathologist/assistant. The Student's IEP also noted the School's participation in eLearning and that instruction will be provided through online materials, paper and pencil assignments, projects, etc, during eLearning Days. FF #9 addresses that eLearning began on March 16, 2020 and continued through the end of the school year three times per week through May 22, 2020. FF #14 demonstrates that assignments were posted by the SLP for the Student during the following weeks: March 16, 2020 - March 20, 2020; March 30, 2020 - April 3, 2020; April 20, 2020 - April 24, 2020; April 27, 2020 - May 1, 2020; May 4, 2020 - May 8, 2020; May 11, 2020 - May 15, 2020; and May 18, 2020 - May 22, 2020. FF #14 also demonstrates that assignments were not posted the weeks of April 6, 2020 - April 10, 2020 or April 13, 2020 - April 17, 2020. FF #18 addresses an email sent on April 15, 2020 requesting the Student participate in a previously posted assignment and that the Student did not respond. FF #14 - FF #16 demonstrate that the assignments posted were specific to the Student and his goal. However, FF #14 also reveals that an SLP did not provide instruction by phone or video conference. Because an appropriately licensed and trained SLP was not working with the Student for thirty minutes a week during distance learning, a violation of 511 IAC 7-42-8(b) is found.

b) FF # 4 includes as an accommodation the use of a whisper phone as needed. FF #6 demonstrates that the school acknowledged its failure to provide a whisper phone for the Student

during distance learning. The IEP did not specify when the whisper phone would be needed. Therefore, a violation of 511 IAC 7-42-8(b) is found.

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

The School shall:

1. Provide compensatory services by a speech language pathologist virtually (through phone or live video lesson) or in-person in the amount of 270 minutes (9 weeks at 30 minutes a week missed) and submit a plan to complete the agreed upon service to the Complaint Investigator by November 2, 2020.
2. Draft a memorandum to special education administration and special education teachers addressing the requirement of 511 IAC 7-42-8(b). In the event the School feels an accommodation is no longer appropriate given a change in the location of services, the IEP must specify that or must be modified to include specific situations where the accommodation is needed or is not needed where that phrase is utilized. A draft of the memorandum is due to the Complaint Investigator by November 2, 2020 and documentation of the distribution of the approved memorandum is due by November 27, 2020.

DATE REPORT COMPLETED: August 31, 2020