

**COMPLAINT INVESTIGATION REPORT**

**COMPLAINT NUMBER:** CP-099-2015  
**COMPLAINT INVESTIGATOR:** Traci Tetrick  
**DATE COMPLAINT FILED:** May 19, 2015

**COMPLAINT ISSUES:**

1. Did Union Township School Corporation ("the School") ensure, to the maximum extent possible, the Student was educated with nondisabled peers? 511 IAC 7-42-10(a)(1)
2. Did the School implement the Student's individualized education program ("IEP") as written? Specifically, did the Student participate in a general education classroom for eighty percent (80%) or more of the day? 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 April 12, 2014, indicates that the least restrictive environment ("LRE") for the Student is in a general education classroom for 80% or more of the day.
3. The Student's IEP requires that the Student receive five (5) minutes of indirect support services for language arts skills, three times per day, specifically in: language arts, science, and social studies, for a total of fifteen (15) minutes daily.
4. The School provided indirect support to sixth grade special education students whose LRE was in the general education environment by providing a special education paraprofessional to work under the direction of the general education teacher in a designated section of the following classes: grammar, literature, math, science, and social studies. The School refers to these classes as "supported classes." The materials and course curriculum in the supported sections are the same as those in the non-supported sections. The paraprofessional provides various supports to individual students and small groups, including but not limited to: re-reading material, reviewing material, and assisting students in correcting assignments.
5. School personnel met on May 27, 2014, to discuss the special education needs of the upcoming sixth grade students and to make classroom assignments. The School created a master schedule with one general education supported class in each core academic section of grammar, literature, math, science, and social studies. The School scheduled all special education students whose IEPs require "that level of service" into the one supported general education section of each core academic subject.
6. During a phone interview with School staff on June 19, 2015, the School acknowledged that scheduling students in this manner "pigeonholes" students into the full supported class schedule, even if the student only needs support in one class.
7. During the 2014-15 school year, there were six (6) sections each for the content areas of literature, grammar, and math, into which sixth grade students could be placed. These six (6) sections included one (1) honors section, four (4) general education sections (one of which was designated as the supported class with special education staff available for student support), and one (1) direct special education section.

8. In each of the content areas of social studies and science, there were five (5) sections into which sixth grade students could be placed. Each of the five science and social studies sections were general education sections, with one (1) section being designated the supported class, with special education staff available for student support.
9. Although the Student required only five (5) minutes of indirect support in each of three subject areas (language arts, science, and social studies) in order to comply with the service requirements of her IEP, she was placed in supported classes in those subjects, as well as in math.
10. The supported grammar class was comprised of sixteen (16) special education students and eight (8) nondisabled students. The special education students constituted 67% of this supported class.
11. The supported literature class was comprised of sixteen (16) special education students and eight (8) nondisabled students. The special education students constituted 67% of this supported class.
12. The supported math class was comprised of fourteen (14) special education students and nine (9) nondisabled students. The special education students constituted 61% of this class.
13. The supported social studies class was comprised of twenty-one (21) special education students and five (5) nondisabled students. The special education students constituted 81% of this class.
14. There were 114 sixth grade students enrolled in the middle school that the Student attends during the 2014-15 school year. Of these 114 students, 27 have been determined eligible for special education and related services, which constitutes 24% of the sixth grade student cohort.
15. Because the School scheduled all of the special education students who required indirect support in the general education setting into the supported class sections of the core academic subject courses, the general education physical education and health classes into which the Student and other similarly situated special education students were placed were each comprised of twenty (20) special education students and six (6) nondisabled students. The Student's art class was comprised of twenty-two (22) special education students and seven (7) nondisabled students. The special education students constituted 77% of the total students in the Student's health and physical education classes and 76% of the total students in the Student's art class
16. Percentages of special education students in each of the non-supported general education sections of the core academic subjects were as follows: grammar - 0%, 6%, 11%; literature - 0%, 6%, 11%; math - 0%, 0%, 15%; science - 8%, 9%, 5%, 5%; and social studies - 12%, 8%, 0%, 5%.
17. Across the five (5) core academic subjects of grammar, literature, math, science, and social studies, the Student had the opportunity to be educated with a grand total of only sixteen (16) different nondisabled peers, out of a cohort that included eighty-seven (87) nondisabled peers.

## **CONCLUSIONS:**

1. Article 7 requires that, to the maximum extent possible, students be educated with nondisabled peers. 511 IAC 7-42-10(a)(1). Finding of Fact #3 shows that the Student's IEP required that she receive indirect services language arts support services in language arts, science, and social studies. Finding of Fact #5 shows that the School placed all the special education students requiring support in general education classes into the same classes. As Finding of Fact #9 shows, the School determined that placing the Student in the supported section of grammar, literature, science, and social studies classes was appropriate. Findings of Fact #6, 9 and 15 show that by default, the Student was also placed into a supported math class, as well as sections of physical education, health, and art classes in which the special

education students constituted over 76% of the total students. Findings of Fact # 14 & 17 show that, out of a sixth grade cohort that was comprised of eighty-seven (87) nondisabled peers, the Student was educated across five (5) core academic subjects with only sixteen (16) different nondisabled students. Finding of Fact # 16 shows that the non-supported general education sections of the core academic subjects included significantly lower percentages of special education students than the supported sections. Because the Student's ability to interact and exchange ideas with nondisabled peers in core academic subjects was restricted to just sixteen (16) of eighty-seven (87) students, and because the Student was educated in classes comprised of disproportionately larger percentages of special education students than the total special education population, even in four (4) classes where there was no documented need for the Student to be receiving any special education support, the Student was not educated to the maximum extent possible with her nondisabled peers. The Student's IEP provided no justification for not educating the Student with her nondisabled peers. Thus, a violation of 511 IAC 7-42-10(a)(1) is found.

2. Article 7 requires that students' IEPs be implemented as written. 511 IAC 7-42-8(b). Finding of Fact #2 shows that the Student's IEP required that she be educated in the general education classroom for 80% or more of the day. Findings of Fact #4-17 show that the School placed all special education students requiring support in general education into the same classes, thus creating classes predominantly comprised of students with disabilities. Because of the disproportionate percentage of special education students in these classes, coupled with the limited opportunity for interaction with nondisabled peers in the supported class sections, the Student was actually educated in a special education environment, even if the course materials and curriculum followed were the same as that offered in the non-supported sections. While the Student may have been provided access to the general education curriculum, it was not in the general education setting. Thus, a violation of 511 IAC 7-42-8(b) 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 Union Township School Corporation shall:

Review and revise its policies and procedures related to student placement and create a master schedule to ensure that all special education students are educated, to the maximum extent possible, with nondisabled peers. These policies and procedures must ensure that students who are placed in the general education classroom are educated with their nondisabled peers and not just provided access to the general education curriculum in a setting predominantly comprised of students with disabilities. A copy of these revised policies and master schedule shall be submitted to the complaint investigator **no later than July 31, 2015.**

Ensure that the Student is scheduled in classes that allow her to be educated, to the maximum extent possible, with her nondisabled peers. A copy of the Student's schedule for the 2015-16 school year, along with proposed class rosters for each class in which she is enrolled, shall be submitted to the complaint investigator **no later than July 31, 2015.**

**DATE REPORT COMPLETED: June 25, 2015**