

**COMPLAINT INVESTIGATION REPORT**

**COMPLAINT NUMBER:** CP-087-2015  
**COMPLAINT INVESTIGATOR:** Traci Tetrick  
**DATE COMPLAINT FILED:** April 28, 2015

**COMPLAINT ISSUES:**

1. Did the Charles A. Tindley Accelerated School (“the School”) implement the Student’s individualized education program (“IEP”) as written? Specifically:
  - a. Did the School administer the Student’s assessments in algebra, language arts, and biology in a small group setting?
  - b. Did the School allow the Student to read algebra tests aloud to himself?
  - c. Did the School allow language arts and biology tests to be read aloud to the Student (except items testing comprehension)?
  - d. Did the School ensure that the Student was given copies of class notes, along with the opportunity to add his own words to the notes?
  - e. Did the School provide the Student with a peer buddy or student tutor to help him one-on-one during the school day?
  - f. Did the School provide the Student with books on tape?
  - g. Did the School provide the Student with a notebook with math formulas as needed?
  - h. Did the School provide 100 minutes of inclusion services per month in the general education setting to support the Student’s reading?
  - i. Did the School follow the agreed upon action plan to ensure that the Student understood and knew how to complete daily homework assignments?  
511 IAC 7-42-8(b)
2. Did the School unilaterally review and revise the Student’s IEP without convening the case conference committee (“CCC”)? Specifically, did the School unilaterally change the IEP with regards to the Student’s educational placement? 511 IAC 7-42-9(a)
3. Did the School provide the Complainant with written notice before proposing to change the educational placement of the Student? 511 IAC 7-42-7(a) & (b)
4. Were all of the teachers providing special education and related services to the Student highly qualified teachers? 511 IAC 7-36-3

**FINDINGS OF FACT:**

1. The Student has been determined eligible for special education and related services.
2. The Student’s most recent IEP, dated November 18, 2014, indicates that the Student is in ninth grade and that the least restrictive environment is in the general education classroom for 80% of more of the day, with “resource support.”
3. The IEP lists a variety of accommodations to be provided to the Student, including, but not limited to, the following: small group setting for tests in algebra, language arts, and biology; reading aloud of algebra tests by the Student; tests read aloud to Student in language arts and biology (except items testing comprehension); provision of copy of notes for class with the opportunity to add his own words; provision of a peer buddy or student tutor to help one on one during the school day; books on tape as needed; and notebook with math formula as needed.

4. The IEP states that the Student will receive 100 minutes of indirect support in the general education setting. The Narrative under this indirect support specifies, “[Student] will receive inclusion services in the general education setting to support his reading.”
5. The Written Notes of the IEP identifies a CCC concern regarding expectations for homework, deadlines for assignments, and study habits. Specifically, the Student’s need is identified as “Ensuring scholar knows what his homework is and how to complete his daily assignments.” An action plan for addressing this need is included and requires in part, “[Student] is to write down his homework assignments first thing when he comes in the building. Scholar needs pre-scripted and pre-written notes from each teacher to remain on task and support [Student].”
6. The School has maintained a written record entitled “Log of Visitation to Exceptional Learner’s Room for Testing with Accommodations” (“Accommodations Record”) for the Student for the 2014-15 school year. This Accommodations Record indicates that the Student visited this room on twenty-five occasions between October 24, 2014 and March 11, 2015, for the purpose of being tested in a small group setting. This small group test setting was provided to the Student for assessments in many subjects, including: physical education, language arts, Spanish, math, and science.
7. Grade Records for the Student show that he took numerous quizzes and tests throughout the year, in language arts and other subjects, in excess of the twenty-five that were administered in the small group setting in the resource room.
8. The Student did not receive accommodations in algebra during the 2014-15 school year because he was not enrolled in algebra. The Student completed algebra I during the 2013-14 school year and passed the ECA. The Student was actually enrolled in geometry during the 2014-15 school year. The School submitted no documentation of any accommodations being provided to the Student in math, beyond the infrequent use of a small group test setting.
9. The School provided no documentation of reading aloud tests to the Student in language arts or in any science class.
10. The School submitted no documentation showing provision of teacher notes in language arts or other subjects.
11. The School provided the Student with a student tutor who worked one-on-one with the Student during the School day for part, but not all, of the 2014-15 school year.
12. The School acknowledged that it did not provide the Student with books on tape.
13. The School acknowledged that it did not provide the Student with a notebook with math formulas.
14. The Student did not receive inclusion services in the classroom; however, his language arts teacher worked with him on a one-on-one basis before class began and on the weekends.
15. The School submitted no documentation showing that it followed the agreed upon action plan to ensure that the Student understood and knew how to complete daily homework assignments.
16. In a letter dated March 13, 2015, the Chancellor and Chief Executive Officer of the School informed the Complainant that, as a consequence of the Student failing three or more classes during the first semester of the 2014-15 school year, he had “been withdrawn from freshman classes [at the high school] and ha[d] sic been enrolled into the 8<sup>th</sup> grade at [the middle school]. The letter indicated that the basis of this change in placement was a Family Resolution, which is an enrollment document required to be signed

annually and requiring that all students maintain a grade of C in all classes. The letter states in bold font, "There will be no exceptions to this policy." The letter further stated, "this placement will take effect immediately."

17. The School did not convene the CCC or provide the Complainant with written notice that it was proposing to change the educational placement of the Student prior to issuing the March 13, 2015, letter.
18. The Complainant communicated her disagreement with the change of placement to the School, but was told the decision was final.
19. The Student was withdrawn from the Charter School by the Complainant after receiving the March 13, 2015, letter in order to avoid the demotion to the middle school general education setting.
20. The School acknowledges that two of the teachers providing special education and related services to the Student were not highly qualified teachers.

## **CONCLUSIONS:**

1. Findings of Fact #3-5 list accommodations and services required by the Student's IEP. Findings of Fact #6-15 address whether the School implemented the Student's IEP as written, and based on those facts:
  - a. The School administered some, but not all, of the Student's assessments in language arts and other curricular areas in the small group setting.
  - b. The revisions made to the Student's IEP in November 2014 did not include updating the math course from algebra, which the Student passed in 2013-14, to Geometry, the math class in which the Student was actually enrolled in 2014-15. It is reasonable to read the IEP to require that the accommodations listed for the content area of algebra be provided in any math class. The School has offered no evidence of providing the Student with the opportunity to read his math tests aloud to himself.
  - c. The School offered no evidence of providing the Student with the opportunity to have tests read aloud in language arts or biology.
  - d. The School offered no evidence of providing the Student copies of class notes, along with the opportunity to add his own words to the notes.
  - e. The School provided the Student with a one-on-one student tutor to help during the school day for part, but not all, of the school year.
  - f. The School failed to provide the Student with books on tape.
  - g. The School failed to provide the Student with a notebook with math formulas as needed.
  - h. The School provided one-on-one support services to the Student before and after the instructional day; however, the School failed to provide 100 minutes of inclusion services per month in the general education setting to support the Student's reading.
  - i. The School offered no evidence of following the agreed upon action plan to ensure that the Student understood and knew how to complete daily homework assignments.

Therefore, a violation of 511 IAC 7-42-8(b) is found with respect to (a), (b), (c), (d), (e), (f), (g), (h), and (i).

2. Findings of Fact #16 and 18 show that the School unilaterally made a final decision to change the educational placement of the Student from ninth grade general education to eighth grade general education, based on the School's strictly enforced policy that requires all students to maintain at least a C in all subjects. Because the School, rather than the CCC, reviewed the Student's academic performance and revised his placement contrary to the requirements of the last agreed upon IEP, a violation of 511 IAC 7-42-9(a) is found.
3. Finding of Fact #17 shows that the School did not provide the Complainant with written notice that it was proposing to change the educational placement of the Student prior to issuing the March 13, 2015 letter

which notified the Complainant that a change of placement had occurred. Because the School failed to provide the Complainant with written notice before proposing to change the educational placement of the Student, a violation of 511 IAC 7-42-7(a) & (b) is found.

4. Finding of Fact #20 shows that the School has acknowledged that two of the teachers providing special education and related services to the Student were not highly qualified teachers. Thus, a violation of 511 IAC 7-36-3 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 offer, in writing, a proposal of compensatory services, to be delivered to the Student with all direct services and accommodations required by the IEP, during the summer 2015 and into the 2015-16 school year as necessary, in order to provide the Student with the opportunity to make sufficient progress to satisfactorily complete the courses he was enrolled in during the 2014-15 school year. Prior grades of F in those courses shall be replaced with Incompletes until the course work has been completed. A copy of the offer of compensatory services shall be submitted to the complaint investigator **no later than June 24, 2015**.

The School shall review and revise its policies and procedures, including but not limited to enrollment documents and notification letters, to be consistent with the requirements of Article 7 and to ensure that these policies do not discriminate against students with disabilities. Specifically, the School shall revise the notification letter it sent to the Student on March 13, 2015. A copy of the revised policies and procedures, including this letter, shall be submitted to the complaint investigator **no later than July 30, 2015**.

The School shall register, and ensure the attendance of, the Director, the Chief Executive Officer, and at least two special education teachers, for the IDOE affiliated Charter School Training scheduled for **September 15 and 16, 2015**, to be held in Indianapolis. Certificates of attendance for each of the required attendees must be submitted to the complaint investigator no later than **September 18, 2015**.

The School shall provide to the IDOE a statement of assurance that all personnel employed or contracted to provide special education and related services to students shall be appropriately licensed and certified, effective as of the beginning of the 2015-16 school year. In addition, the school shall submit copies of teacher licensure documents showing that all staff serving as TORs for the 2015-16 school year are highly qualified. The statement of assurance and licensure documentation shall be submitted no later than **July 30, 2015**.

**DATE REPORT COMPLETED: June 5, 2015**