

REVISED COMPLAINT INVESTIGATION REPORT

COMPLAINT NUMBER: CP-008-2016
COMPLAINT INVESTIGATOR: Veronique Briscoe Beuoy
DATE COMPLAINT FILED: August 27, 2015

COMPLAINT ISSUES:

1. Did Northwest Allen County Schools (School) implement the Student's IEP as written?
Specifically:

Did the School provide the Student with interpreting services for all classes and activities during the school day? 511 IAC 7- 42-8(b)
2. Did the interpreting services that were provided meet the requirements of 511 IAC 7-43-1(i)(2)?
3. Did all personnel employed by the School to provide special education or related services have appropriate licensure or certification? 511 IAC 7-36-2

FINDINGS OF FACT:

1. The Student has been determined eligible for special education and related services.
2. The Student's IEP dated May 18, 2015 provides that the Student will receive sign language interpreting services for 6.5 hours per day for all classes and activities during the school day.
3. The School's previous Certified Sign Language interpreter gave notice of resignation approximately 2 weeks before the start of the 2015-2016 school year.
4. The School's previous Certified Sign Language Interpreter provided interpreting services for the Student on August 12th, 13th, 14th, and the 27th of the 2015-2016 school year.
5. While the School sought to replace the previous Certified Sign Language Interpreter, there was no permanent interpreter on staff to provide the services as outlined in the Student's IEP.
6. The School brought in substitute interpreters to provide services to the student.
7. Substitute Certified Interpreters provided services to the Student on 9 instructional days.
8. On the remaining 14 instructional days, interpreting services were provided by paraprofessionals "with knowledge of ASL (American Sign Language)." The paraprofessionals were not certified to interpret in an educational setting.
9. The School received acceptance of a permanent offer for employment by a certified interpreter on or about September 16th, 2015.
10. The Student's Teacher of Record (TOR) is licensed to instruct the Hearing Impaired.

11. The Student's Teacher of Service (TOS) is a licensed special education teacher.

CONCLUSIONS:

1. Finding of fact #2 states that the Student's IEP required provision of sign language interpreting services for 6.5 hours per day during all classes and activities during the school day. Findings of Fact #3-8 show that the Student was not provided with certified interpreting services for all classes and activities during the school day on 14 instructional days. The School failed to provide these services as written for a total of 91 hours. **Thus, the Student's IEP was not implemented as written and a violation of 511 IAC 7-42-8(b) is found.**
2. 511 IAC 7-36-2 requires all personnel employed or contracted by a school to provide special education and related services to be appropriately licensed or certified and to have the content knowledge and skills necessary to provide services for which the individual is employed. The TOR for kindergarten through grade 12 must be appropriately licensed in the area of the student's disability and personnel working with deaf or hard of hearing students who provide sign language transliteration and interpreting services must be certified to interpret in an educational setting.
 - a) Findings of Fact #4-8 indicate that although the School attempted to provide interpreting services to the Student on all instructional days, interpreting services provided to the Student were not exclusively performed by certified interpreters. **Accordingly, there has been a violation of 511 IAC 7-43-1(i)(2) and 511 IAC 7-36-2 for the School's failure to provide certified interpreting services on each instructional day.**
 - b) Finding of Fact #10 demonstrates that the Student's TOR is licensed in the area of the Student's disability. **No violation of 511 IAC 7-36-2 is found with respect to the TOR.**
3. Finding of Fact #11 demonstrates that the Student's TOS is licensed to teach in the special education setting. Although special education licensure and certification is required of all personnel providing special education and related services, Article 7 does not require a student's TOS to be licensed specifically in the area of the student's disability. **No violation of 511 IAC 7-36-2 is found with respect to the TOS.**

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:

Northwest Allen County Schools shall:

1. Formally hire a certified interpreter to provide sign language transliteration services to its Deaf and Hard of Hearing (DHH) students. The School will provide proof of the interpreter's certification and employment **no later than October 15, 2015.**
2. Conduct Professional Development Training in conjunction with the Center for Deaf and Hard of Hearing related to Rule 42 of Article 7. Professional Development Training, is not limited to, but shall specifically address: 1) **availability of external resources to facilitate meaningful educational benefit provided to DHH students, and 2) incorporation of available resources in development, review, revision, and implementation of a student's IEP. The Professional Development**

Training shall occur in a meeting attended by the School's Special Education Director and the Student's TOR. A copy of the training materials received and reviewed shall be submitted to the complaint investigator no later than November 6, 2015

3. Ensure that the Student receives an adequate number of hours of compensatory services to compensate for the lost educational opportunity associated with not having an appropriately certified interpreter from the beginning of the 2015-2016 school year to the first date of service for the newly hired certified interpreter. The School shall reconvene the CCC meeting, including the Special Education Director and advocate of Complainant's choice if the Complainant wishes to bring an advocate, to review and revise the IEP for the purpose of determining the total amount and nature of compensatory services to be provided to the student. In making this determination, strong consideration should be given to the number of hours that appropriate interpreting services were not received as well as the nature and extent services are truly needed to put Student in the position she would have been in but for lack of a certified interpreter. Facilitated IEP Services with a facilitator provided by the Indiana IEP Resource Center to improve communication between Parents and School and to aid in identifying potential agreements should also be considered. This CCC meeting shall occur **no later than November 13, 2015**. The amount and nature of compensatory services due to the Student, as well as a compensatory service provision plan and agreed upon location of services, should be clearly indicated in the Student's revised IEP. Providing additional services during school breaks and holidays should be considered. A copy of the revised IEP should be submitted to the complaint investigator **no later than November 23, 2015**.

DATE REVISED REPORT COMPLETED: October 22, 2015