

**COMPLAINT INVESTIGATION REPORT**

**COMPLAINT NUMBER:** CP-124-2017  
**COMPLAINT INVESTIGATOR:** Traci Tetrick  
**DATE COMPLAINT FILED:** June 28, 2017

**COMPLAINT ISSUES:**

1. Did the School implement the Student's individualized education program (IEP) as written?  
Specifically:
  - a) Did the School respond to the Student's identified behaviors of concern by implementing the strategies listed in the behavior intervention plan (BIP) developed on or around November 30, 2016?
  - b) Did the School provide the Student with the social skills instruction as required by the IEP? 511 IAC 7-42-8(b)
2. Did the School require the parent to provide transportation? 511 IAC 7-36-8(d)

**FINDINGS OF FACT:**

1. The Student has been determined eligible for special education and related services.
2. The Student's IEP dated November 30, 2016 contains a BIP that identifies behaviors of concern as well as a list of instructional strategies discussed by the CCC to address these behaviors. This IEP also includes a notation that incorporates by reference into the Student's BIP a written behavior chart subsequently developed on December 2, 2016 and sent home for review prior to implementation of the November 30, 2016 IEP. The behavior chart contains the 6 strategies identified in the IEP plus additional clarifying information and a chart for teachers to fill in daily and send home.
3. The Student's IEP does not require social skills instruction in the section entitled "Services and other Provisions;" however, the Written Notes section states that the guidance counselor will "directly teach" the Student social skills identified by the CCC as behaviors to focus on during the discussion of the BIP. No frequency, length, or duration of service delivery is provided for this skill instruction.
4. One of the strategies identified both in the IEP and in the behavior chart is the provision of a Caught in the Act (CIA) reward card daily for each day the Student stays in class all day.
5. The Student's IEP does not require transportation as a related service.
6. The Consent to Implement the IEP dated was never signed by the Complainant; by default the IEP was deemed implemented by the School on December 12, 2016, the first instructional day following the expiration of 10 instructional days from the date the proposed IEP was provided to the Complainant.
7. The behavior chart was completed by teachers and sent home on every instructional day the Student attended school between December 12, 2016 and January 25, 2017.
8. Between December 12, 2016 and January 25, 2017, the Student was absent on the following days: December 13 and 20; January 17, 24 and 25.

9. On January 11, 2017, the Local Director of Special Education for the School (the Local Director) received a call from the Complainant, voicing several parental concerns, including two directly related to the IEP. The parent specifically asked whether the Student had received any CIA cards and whether the counselor was providing social skills instruction. During this phone call, a follow-up CCC meeting was tentatively scheduled for January 30, 2017 to review how the revised BIP was working.
10. In response to the January 11, 2017 call, the Local Director reviewed the IEP and issued a timely email that same day to the Student's teachers and other service providers, inquiring about compliance with these IEP requirements and two other concerns. The Local Director also reviewed the Student's attendance records and the behavior charts.
11. Staff replied within hours of the internal compliance inquiry, and the Local Director identified a miscommunication – the TOR thought a teacher was issuing the CIA cards, and the teacher thought the TOR was issuing the cards. This miscommunication was communicated to the Complainant the same day and a plan was put in place by the School to ensure provision of earned CIA cards immediately. The Local Director also informed the Complainant that, due to the Student's absences, winter break, and no school on snow days on December 15 and 19, 2016, the Student had not yet met with the counselor to receive any social skills instruction.
12. Effective as of January 12, 2017, the staff began using the bottom right hand box of the behavior chart as a recording space to communicate daily whether the Student earned a CIA card. The Student earned or received CIA cards on January 13, 18, 19 and 23<sup>1</sup>.
13. On January 12, 2017, the Student missed an afternoon session with the counselor due to leaving early.
14. On January 13, 2017, the Student and the counselor met, discussed social skills and other Student goals and started working together on the "10 Easy Ways to Get Good Grades" program.
15. On January 25, 2017, the Complainant requested, signed, and submitted an Intra-District Transfer Request form (Transfer Form). This unilateral parental request to transfer the Student was not the result of, nor in conjunction with, a CCC determined change of placement.
16. The Transfer Form contains the following written notification to parents seeking transfer:  
PARENT RESPONSIBILITIES IF TRANSFER IS APPROVED:
  1. Provide transportation to and from school each day.
  2. Make sure that the student attends school regularly and is punctual.
17. On January 25, 2017, the Complainant emailed the School – asking for work for her son and notifying staff that the Student would be staying home the next week and starting at another School on January 30, 2017.
18. The request to transfer was approved on January 26, 2017, and a CCC meeting with staff from the new school was scheduled for January 30, 2017 to review and revise the IEP.
19. On January 30, 2017, the School reconvened the CCC to include the transfer school staff, and the IEP was revised. Among other revisions, direct services related to social skills with a definite frequency, length, and duration were added to the "Services and Other Provisions" section.

---

<sup>1</sup> On January 19 and 23, 2017, it was noted on the Behavior Chart that the Student earned a CIA cards but he did not stop by the teacher's room to pick these up.

## **CONCLUSIONS:**

1. IEPs must be implemented as written. 511 IAC 7-42-8(b).
  - a. Findings of Fact (FFs) #2, 6, and 17 show that the Student's IEP in effect from December 12, 2016 to January 25, 2017 contained a BIP that required a behavior chart to be filled out daily. FF #7 shows that the School ensured the completion of a behavior chart daily while this IEP was in effect. FF #4 shows that, among other provisions in the BIP, the IEP required the provision of CIA cards to the Student for staying in class all day. The Findings show there were 19 instructional days during the time period that this IEP was in effect, and that the Student attended school on 14 instructional days and was absent on 5 instructional days during the period. FF #11 shows that on 9 of the 19 instructional days the School did not make available CIA cards to the Student nor document whether the CIA card had been earned, due to staff miscommunication. FFs #10-12 show that as soon as the School became aware of this miscommunication, it immediately self-corrected this noncompliance and remained compliant with the CIA card provision until the Student transferred on January 25, 2017.
  - b. FF #3 shows that the IEP generally required the provision of social skills instruction to the Student; however, the frequency, length and duration of service delivery was not stated in the IEP. FFs #12 and 13 show that, during the 19 instructional days this IEP was in effect, two sessions were offered to the Student and one was attended. Due to the ambiguity caused by failing to include a statement of the frequency, length, and duration of social skills instruction in this IEP, a technical violation is found. However, as FF #19 shows, the School self-corrected this ambiguity at the subsequent CCC meeting.

Thus, technical violations of 511 IAC 7-42-8(b) are found with regards to both (a) and (b). However, because of the timely self-correction identified for both technical violations, no additional corrective action will be ordered.

2. FF #5 shows that transportation is not required by the Student's IEP as a related service. FFs #15 and 16 show that the parent unilaterally decided to transfer the Student away from the home school and signed a Transfer Form, agreeing in writing to provide transportation to the Student to the transfer school. Thus, no violation of 511 IAC 7-36-8(d) is found.

**The Department of Education, Office of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.**

**DATE REPORT COMPLETED: August 3, 2017**