

73 IDELR 164

118 LRP 34290

**Westview School Corporation
Indiana State Educational Agency**

CP-126-2018

June 22, 2018

Related Index Numbers

355.065 Special Education Teachers/Instructors

355.067 Substitutes

Judge / Administrative Officer

Kacie Symes, Complaint Investigator

Ruling

The Indiana Department of Education, Office of Special Education decided that none of a student's special education rights were violated and no corrective action was required where a substitute teacher was assigned to the student's classroom from March to the end of the academic year.

Meaning

It's inevitable that districts will need to assign substitute teachers to special education classes at one time or another. As this case illustrates, to ensure that the IEPs of the students are implemented and the students are taught by qualified special education teachers, the districts can assign a state approved and licensed teacher of record who is responsible for the students with disabilities even though a substitute is in the classroom.

Case Summary

An Indiana student eligible for special education services was taught by a teacher during the 2017-18 academic year by a teacher with a license that permitted the teacher to provide services to the student based upon the student's area of eligibility and enrolled course title, Functional Skills/Basic Skills. The teacher resigned in March, and the school notified the student's parents of the staffing change. The school also laid out its plans for completing the academic year and invited the parents to contact it with any questions. In addition, the responsible

special education cooperative also contacted the parents and further clarified the plan for completing the academic year. The cooperative specifically communicated to what the new instructional and teacher of record responsibilities would be. That teacher was appropriately licensed by the state; however, the student was taught by a substitute teacher who met local school corporation standards for the remainder of the academic year. The parents filed a state complaint contending the substitute assignment conflicted with their child's right to be taught by a properly licensed and qualified special education teacher. The state investigator explained that under state law, the school was permitted to use substitute teachers. Additionally, she found that the student, at all times, had an appropriately licensed, special education teacher assigned as the student's teacher of record. That teacher, noted the investigator, was responsible for ensuring implementation of the student's IEP. Finding no violation of the student's rights, the investigator dismissed the complaint.

Full Text

Complaint Investigation Report

Complaint Issues

1. During the 2017-2018 school year, did Westview School Corporation (the School) ensure that the Student was taught by highly qualified special education teachers in accordance with 511 IAC 7-36-3?

Findings of Fact

1. The Student is eligible for special education and related services.
2. From the start of the 2017-2018 academic year until approximately March 5, 2018, the Student was taught by Teacher 1, who also served as the Student's teacher of record (TOR). The teacher has a P-12 Mild Intervention license that expires June 30, 2018 that permits the teacher to provide services to the Student based upon the Student's area of eligibility and enrolled course title, Functional Skills/Basic Skills.
3. Teacher 1 resigned on or about March 5, 2018.

In a letter dated March 7, 2018, the School notified the affected parents of the staffing change, the plan for completing the academic year, and an invitation to reach out with any questions. In a letter dated March 13, 2018, the responsible Special Education Cooperative also contacted the affected parents and further clarified the plan for completing the academic year, as well as specifically communicating who the new instructional and teacher of record responsibilities would fall upon.

4. The Student was assigned a new teacher of record (Teacher 2) who has a Mild Intervention and an Intense Intervention license that expires in 2021 that permits the teacher to ensure services are provided to the Student in accordance with the Student's individualized education program (IEP).

5. Teacher 1's class, Functional Skills/Basic Skills, finished the 2017-2018 academic year being taught by a substitute teacher, in accordance with local school corporation standards. The substitute teacher has a substitute permit that expires in 2021.

Conclusions

1. 511 IAC 7-36-3 requires a special education teacher in a public school to be highly qualified by obtaining full state licensure as a special education teacher, including licensure obtained through an alternative route. Findings of Fact #2-#5 indicate that from the beginning of the 2017-2018 academic year to approximately March 5, 2018, the Student was taught by a teacher who was appropriately licensed to provide special education services to the Student based upon the Student's area of eligibility, enrolled course title, and grade. After March 5, 2018, the Student was assigned a new, appropriately licensed teacher of record and was taught by a substitute teacher who met local school corporation standards and who has an appropriate substitute permit. The School is permitted to use substitute teachers. The Student has, at all times, had an appropriately licensed, special education teacher assigned as TOR, responsible for ensuring implementation of the Student's IEP. For these reasons, no violation of 511

IAC 7-36-3 is found.

The Department of Education, Office of Special Education does not require any additional Corrective Action based on the Findings of Fact and Conclusion listed above.