

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2285.06  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: October 14, 2005  
DATE OF REPORT: November 14, 2005  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: January 24, 2006

**COMPLAINT ISSUES:**

Whether Indianapolis Public Schools violated:

511 IAC 7-19-1(b) by failing to locate a student with a disability at a private school within its boundaries;  
and

511 IAC 7-21-9 by failing to administer the ISTEP+ test to the student.

**FINDINGS OF FACT:**

1. The Student, 14 years old, has been identified as having a learning disability and has been determined eligible for special education and related services.
2. The Student, who resides in southeastern Indiana, attends a central Indiana private school for children with learning disabilities, which is not accredited by the Indiana State Board of Education.
3. Effective July 1, 2005, the Individuals with Disabilities Education Improvement Act, passed by Congress in 2004, designates the Local Educational Agency (LEA) where a private school is located as responsible for providing special education services to children eligible for services at the private school (rather than the LEA where the child resides). The School Corporation is the LEA where the private school is located.
4. The School Corporation provides information to the public about referring and identifying children (ages 3 through 21) for special education through advertisements in a neighborhood newspaper (four times per year), as well as through monthly inserts that are sent with the daily newspaper. The School Corporation's website contains an invitation to the public to contact the Special Education Department if they suspect that any child between the ages of 3 and 21 is in need of special education services.
5. There was no insert in the daily newspaper during the 2004-2005 school year.
6. The School Corporation's Special Education Procedures Manual contains information on child identification. The manual is given to all special education teachers, principals, special education administrators, speech therapists, occupational therapists, physical therapists, and preschool personnel. It is available at the School Corporation's headquarters and on its website.
7. The following procedures, concerning the referral of private school students for evaluation when they are suspected of being in need of special education and related services, are mailed by the School

Corporation to private schools or distributed at an annual consultation with representatives from private schools: (1) A parent or private school employee contacts the Special Education Department. (2) A letter of acknowledgement and a referral information packet are sent to the private school and the parent. (3) The referral packet is completed and returned. (4) Upon receipt of the referral packet, the School Corporation assigns the case to a special services team at a public school close to the student's private school (boundary school). (5) The special services team makes immediate contact with the parent to discuss the referral and arrange for testing. (6) The evaluation is completed at the public school. A visit to the student's private school is arranged to observe the student in his or her academic setting. (7) A case conference committee is convened, with the public school determining the location of the meeting. Representatives from the student's private school should be included, and the student's general education teacher must attend. (8) An individualized education program (IEP) is developed if the student qualifies for special education. The IEP will be made available at the student's boundary school. (9) If the parents unilaterally choose to keep the student enrolled in a private school, a service plan will be developed. (10) If the parents wish to enroll the student in the public school, the services as recommended in the IEP will go into effect in the public school setting.

8. There was no consultation with representatives from the private schools during the 2004-2005 school year.
9. A consultation with private school representatives is scheduled for November 11, 2005. The private school the Student attends has not responded to the invitation to the meeting.
10. The Student's IEP calls for the Student to receive Indiana Statewide Testing for Educational Progress-Plus (ISTEP+) testing.
11. Indiana law (IC 20-32-1-1) specifies that state laws regarding student standards, assessments, and performance (including ISTEP+) apply only to public schools and nonpublic schools that voluntarily have become accredited under the state accreditation process under IC 20-19-2-8.
12. According to the 2005-2006 ISTEP+ Program Manual (3.2.11):  
"Students in nonpublic schools that are not accredited, including home-schooled students, may not participate in ISTEP+ testing in their nonpublic school. If the student has dual enrollment in a public school and a nonpublic school that is not accredited, the student is a public school student and must participate in ISTEP+ testing in the public school. To qualify for dual enrollment, the student must receive educational services from the school corporation; that is, the student must be enrolled in at least one course or curriculum program that is part of the public school's regular instructional day. The student must be included in the school corporation's ADM count on a full time equivalency basis as provided in IC 21-3-1.6-1.2. Students participating in activities, but not enrolled, and students participating only in extracurricular activities or an occasional day of testing do not meet the enrollment requirement."
13. The Student is not enrolled in any classes of the School Corporation. The Student is not included in the School Corporation's ADM count.

## **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that the School Corporation is responsible for providing special education services to the Student. Findings of Fact #4 through #9 indicate that the School has child identification procedures in place, which it advertises through newspapers and its website. However, Findings of Fact #5 and #8 indicate that two child identification procedures were not followed during

the 2004-2005 school year, one of which pertains especially to private school students. Therefore, the Student was not located and a violation of 511 IAC 7-19-1(b) is found.

2. Findings of Fact #2 and #10 through #13 indicate that, although ISTEP+ testing is called for in the Student's IEP, the Student is not eligible for ISTEP+ testing as a private school student. The Student is not dually enrolled in both the private, non-accredited school and a school of the School Corporation. Therefore, a violation of 511 IAC 7-21-9 is not found.

**The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

Indianapolis Public Schools shall provide documentation regarding the consultation with private school representatives on November 11, 2005, and a written memorandum regarding the School Corporation's plan to follow all child identification procedures in the future. Provide an agenda and handouts from the consultation, as well as a list of those attending and their signatures, by December 16, 2005. A copy of the written memorandum shall be sent to the Division by the same date.