

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2301.06  
COMPLAINT INVESTIGATOR: Brian Simkins  
DATE OF COMPLAINT: January 25, 2006  
DATE OF REPORT: February 22, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: March 24, 2006

**COMPLAINT ISSUES:**

Whether the New Albany-Floyd County Consolidated School Corporation violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to:

- (a) write down the student's homework assignments on a daily basis with teacher signature;
- (b) administer the student's required daily medication; and
- (c) implement the student's behavior-related accommodations.

**FINDINGS OF FACT:**

1. The Student, 12 years old, is identified as a student with an emotional disability and has been determined eligible for special education and related services. During the course of this investigation, the Student was unilaterally placed by the Complainant in a residential hospital program.
2. The Student's IEP, dated May 19, 2005, indicates on the accommodations page under "Level of Support" that the Student is to use an assignment notebook. The IEP does not require the Student's teacher(s) to sign the notebook. In fact, the IEP does not provide any details with regard to how this accommodation is to be implemented, by whom, and with what resources. The School could not provide documentation to determine whether and to what extent this accommodation was implemented.
3. The Student's IEP, under the section "Medical Information" lists the various medications that must be administered to the Student. The School acknowledges, and the Student's medication log indicates, that the Student did not receive the required medication on a consistent basis prior to November 1, 2005. On November 1, the Special Education Director met with the Student's counselor and directed her to give the Student a daily reminder at lunch to take the required medication if the Student had forgotten to report to the School's health aide, who was directed to call the Student out of class if necessary to administer the medication. The Student's medication log indicates that since November 1, 2005, up until this complaint was filed, the Student's medication has been administered on a daily basis pursuant to the IEP.
4. The Student's IEP indicates that the Student is to be provided positive behavioral support, specifically: (1) "Avoid verbal confrontation when student is upset;" (2) "Allow student a "cooling off" period outside the classroom;" and (3) "Restrict student's movement throughout building or provide additional supervision."

5. The Student received out-of-school suspension for three days, October 28, 31, and November 1, 2005, for an incident whereby the Student exhibited inappropriate and disruptive behavior. The School acknowledges that the Student's behavioral support accommodations were not implemented and agreed to rescind the suspension from the Student's record.

**CONCLUSION:**

Findings of Fact #2 through #5 indicate that the School failed to implement the Student's IEP dated May 19, 2005, as written, specifically:

- (a) Finding of Fact #2 indicates that the School cannot document whether and to what extent the Student maintained a daily assignment notebook. Furthermore, the IEP is vague as to who is responsible for keeping track of the assignments and what exactly needs to be done in order to implement this accommodation. The IEP lacks sufficient clarity so that both the parent/guardian and school personnel working with the Student know what service the Student is to receive from whom and with what resources. Ambiguities in an IEP shall be construed against the public agency responsible for its implementation. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the daily assignment notebook;
- (b) Finding of Fact #3 indicates that the School failed to consistently administer the Student's medication on a daily basis from August 10, to November 1, 2005. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the administration of medication; and
- (c) Findings of Fact #4 and #5 indicate that the School did not follow the behavioral supports in the Student's IEP during a behavioral incident in which the Student was suspended. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the Student's behavioral support accommodations.

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

**CORRECTIVE ACTION:**

The New Albany-Floyd County Consolidated School Corporation shall:

Convene the Student's case conference committee to review and revise the Student's IEP. Specifically, the case conference committee shall: (1) determine whether the Student will return to school and, if so, whether a change of the Student's placement with regard to special education and related services is necessary; (2) determine whether to maintain the use of an assignment notebook and, if so, whose responsibility it will be to keep track of assignments; (3) update the IEP so as to make clear how the School will ensure that the Student receives the required medication; and (4) discuss the Student's behavioral needs and if necessary modify or develop a new behavioral intervention plan so as to meet the Student's needs. A copy of the Case Conference Report/IEP shall be submitted to the Division no later than March 31, 2006.