

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2322.06  
COMPLAINT INVESTIGATOR: Brian Simkins  
DATE OF COMPLAINT: April 10, 2006  
DATE OF REPORT: May 10, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: May 31, 2006

**COMPLAINT ISSUES:**

Whether the Fort Wayne Community Schools violated:

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

511 IAC 7-27-7(b) by failing to assign a teacher of record that is obligated to monitor the implementation of the student's IEP.

**FINDINGS OF FACT:**

1. The Student, 15 years old, is a student identified with an emotional disability and a mild mental disability, and has been determined eligible for special education and related services.
2. The Student's behavior at school resulted in arrest by a Fort Wayne police officer outside the cafeteria. The Student had a book bag in violation of school rules, and was approached by the Assistant Principal to turn over the book bag. After the Student turned over the book bag, the Student then got into an argument with the police officer which resulted in her arrest. The Student was suspended for five days.
3. The Student's BIP dated March 29, 2005, in effect at the time of the incident indicates that, in addition to teachers and other school personnel working with the Student, school administrators should be provided a copy of the BIP. Administrators are assigned to address discipline of specific students based on the students' last names. AP1 (Assistant Principal 1) is assigned to the Student and had a copy of the Student's BIP. However, AP2 (Assistant Principal 2) was involved in the September 9 incident and is not assigned to the Student and had not been provided a copy of the Student's BIP.
4. The Student's BIP requires school personnel working with the Student to "give criticism in a calm voice away from peers," "give concrete rules and expectations," and "follow with logical, consistently-enforced consequences." The Incident Report shows that the AP2 used the strategies identified in the BIP in the September 9 incident, specifically by speaking calmly to the Student away from peers and explaining the rules. According to the BIP, suspension is one of the consequences for poor behavior exhibited by the Student.
5. The teacher of record (TOR) assigned to the Student when the 2005-2006 school year started had not yet been hired. Therefore, the TOR changed from an existing staff member, who was the Student's TOR for only a short period of time (as indicated on the IEP dated August 31, 2005), to the TOR who became the one assigned to the Student for the remainder of the school year once he joined the faculty

shortly after the case conference committee meeting held on August 31, 2005. There was no lapse when the Student was not assigned a TOR.

6. The Complainant filed a complaint involving the same issues with the United States Department of Education, Office of Civil Rights (OCR) on September 28, 2005. OCR fully investigated that complaint, and concluded that the Student's IEP/BIP were distributed to all teachers working with the Student by the School's Special Education Department Head prior to the beginning of the 2005-2006 school year, and that the BIP was implemented as written with regard to the aforementioned incident involving the Student on September 9, 2005.

**CONCLUSIONS:**

1. Findings of Fact #3 through #4 indicate that the School did not fail to implement the Student's BIP during an incident on September 9, 2005. Therefore, a violation of 511 IAC 7-27-7(a) is not found.
2. Finding of Fact #5 indicates that the School did not fail to assign a TOR to the Student. Therefore, a violation of 511 IAC 7-27-7(b) is not found.

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