

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2333.06  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: May 8, 2006  
DATE OF REPORT: June 5, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: August 10, 2006

**COMPLAINT ISSUES:**

Whether Anderson Community School Corporation and Anderson Community Special Education Cooperative violated:

511 IAC 7-29-1(f) by failing to do the following when a student with a disability has been suspended for more than ten (10) cumulative instructional days in the same school year:

- 1) Provide services to enable the student to progress appropriately in the general curriculum; and
- 2) Provide services to enable the student to advance appropriately toward achieving the goals set out in the student's individualized education program (IEP);

511 IAC 7-29-6(b) by failing to conduct a review of the relationship between a student's disability and the behavior subject to disciplinary action (manifestation determination) within ten (10) instructional days after the date on which a decision is made to change the student's placement; and

511 IAC 7-29-5 by failing to convene a case conference committee (CCC) meeting within ten (10) business days after suspending a student for more than ten (10) cumulative instructional days in a school year, to review the student's behavioral intervention plan and its implementation.

During the course of the investigation, the following issue was added:

511 IAC 7-29-6(g) by suspending or expelling a student for the student's behavior after the CCC and other qualified professionals determined that the student's behavior is a manifestation of the student's disability.

**FINDINGS OF FACT:**

1. The Student, 16 years old, has been identified as having an emotional disability and determined eligible for special education and related services.
2. The Student was suspended eight (8) times during the 2005-2006 school year at the time the complaint was filed, for a total of twenty-five (25) days, for profanity, failure to follow directions, fighting, and other violations. The breakdown of suspension days over the course of the school year was as follows:
  - October 2005: 3 days
  - November 2005: 7 days
  - December 2005: 2 days (2 suspensions of 1 day each)
  - March 2006: 6 days (2 suspensions of 5 days and 1 day, respectively)

April 2006: 7 days (2 suspensions of 5 days and 2 days, respectively)

3. The Director of Special Education acknowledged that work was sent home for the Student to complete during suspension periods, and the Student's teacher went over material with him when he returned to school, but homebound instruction or other services were not provided.
4. The Student reached ten (10) days of suspension as of November 29, 2005. A CCC meeting was held on November 30, 2005. One of the purposes of the meeting was to make a determination whether the Student's behavior was a manifestation of the Student's disability. The CCC determined that a causal relationship did exist between the Student's disability and his behavior. A Manifestation Determination Review Summary was filled out, and the Student's functional behavioral assessment (FBA) and behavioral intervention plan (BIP) were updated.

### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that, upon the Student's being suspended for more than ten (10) cumulative instructional days in the same school year, the School failed to provide services to the Student to allow him to progress appropriately in the general curriculum, and to provide services to enable him to advance appropriately toward achieving the goals set out in his IEP. Therefore, a violation of 511 IAC 7-29-1(f) is found.
2. Finding of Fact #4 indicates that the School conducted a review of the relationship between the Student's disability and the behavior subject to disciplinary action within ten (10) instructional days of a change of placement. A change of placement occurred due to suspensions of similar lengths, given for similar reasons, within close time periods of one another, and for more than ten (10) cumulative instructional days throughout the school year. Therefore, a violation of 511 IAC 7-29-6(b) is not found.
3. Finding of Fact #4 indicates that the CCC reviewed the Student's BIP within ten (10) business days after suspending the Student for more than ten (10) cumulative instructional days in the school year. Therefore, a violation of 511 IAC 7-29-5 is not found.
4. Findings of Fact #2 and #4 indicate that the School continued to suspend the Student during the rest of the school year after a causal relationship was found between the Student's disability and his behavior. Therefore, a violation of 511 IAC 7-29-6(g) is found.

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

### **CORRECTIVE ACTION:**

1. Convene the Student's CCC to determine what compensatory services are necessary during the summer and next school year to make up for the time the Student did not receive instruction when suspended for more than ten (10) cumulative instructional days in the same school year. Additional time may be needed for the Student to complete or make up work that may have been missed due to suspensions or lack of instruction. The CCC shall review the Student's current educational placement, the student's IEP, and current educational evaluation data in accordance with 511 IAC 7-29-6(g). Provide a compensatory services plan as a part of the CCC report, and send the report to the Division by June 23, 2006.
2. With the CCC, develop a new FBA and review and revise the BIP to describe how the Student's environment will be altered, identify positive behavioral intervention strategies, and specify which skills

will be taught in an effort to change a specific pattern of behavior of the Student. The plan should be linked to information gathered through the FBA, and should seek to maximize consistency of implementation across people and settings in which the Student is involved. Provide the FBA and BIP with the CCC report, which will be sent to the Division by June 23, 2006.

3. Provide inservice training to all relevant staff dealing with discipline regarding Rule 29 in Article 7, specifically discipline procedures, including rules and regulations regarding suspensions, manifestation determinations, and changes of placement for disciplinary reasons. Provide a copy of the training materials and a copy of the attendance sheet of participants to the Division by September 22, 2006.