

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-174-2007
COMPLAINT INVESTIGATOR: Brian
DATE OF COMPLAINT: January 22, 2007
DATE OF REPORT: February 21, 2007
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 10, 2007

COMPLAINT ISSUES:

Whether the Indianapolis Public Schools violated:

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

511 IAC 7-27-7(b) by failing to ensure that the student's teacher of record monitors the implementation of the student's IEP and provides technical assistance and consultation to the student's general education teachers.

During the course of this investigation the following issue was discovered:

511 IAC 7-27-3(a) by failing to ensure that the case conference committee participants include the Student's teacher of record.

FINDINGS OF FACT:

1. The Student, 15 years old, is identified as a student with an emotional disability, and has been determined eligible for special education and related services.
2. The Complainant specifically alleges that the School is not implementing the Student's BIP with respect to: not allowing the Student to utilize an emergency pass; and by not allowing the Student to take emergency time-outs to "cool off" when upset.
3. According to the Student's IEP dated December 1, 2006, the Student has an emergency pass that allows him to remove himself from class whenever he feels like he needs the opportunity to calm down when feeling angry or anxious. Once the Student leaves class he is to see the Teacher of Record (TOR) or Social Worker in order to have the opportunity to explain himself and to receive coping skills.
4. E-mails between school personnel, notes from a meeting held on September 29, 2006, between the Complainant and school personnel, and case conference committee notes from November 10, and December 1, 2006, indicate that the Student is struggling academically. Both parties agree that the Student often does not come prepared to class, does not participate in class, does not complete assignments, does not follow instructions, and exhibits disrespectful behavior. The case conference notes dated December 1, 2006, discuss the Student's abuse of the emergency pass to get out of class. However, there is no documentation indicating whether and to what extent the Student has utilized the

pass, for what reasons, and whether the Student has been able to find a place to cool off (emergency time-outs) and discuss matters with the TOR or the Social Worker.

5. Documentation indicates that the Student's teachers are informed of the Student's IEP and can access at any time via classroom computer. E-mails between school personnel and various written memorandums indicate an open line of communication. However, there is no documentation indicating whether and to what extent the TOR regularly monitors the implementation of the IEP including implementation of accommodations, and provides consultation and technical assistance to the Student's teachers.
6. The School acknowledges that the Student's TOR did not participate at the case conference committee meeting held on December 1, 2006.

CONCLUSIONS:

1. Findings of Fact #2 through #4 indicate that, although the usage of an emergency pass in order to take an emergency time-out is a strategy for the Student to use, the School failed to document whether and to what extent this requirement has been implemented as written in the Student's BIP. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #5 indicates that the School cannot document whether and to what extent the Student's TOR: (a) regularly monitors the implementation of the Student's IEP/BIP; (b) provides technical assistance and consultation to the Student's teachers; and (c) is otherwise responsible for all other activities identified in 511 IAC 7-17-72, except for ensuring that school personnel have access to the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(b) is found.
3. Finding of Fact #6 indicates that the School failed to ensure that the Student's TOR participated in the case conference committee meeting held on December 1, 2006. Therefore, a violation 511 IAC 7-27-3(a)(3) is found.

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 Indianapolis Public Schools shall:

Convene the Student's case conference committee to determine whether and to what extent the Student's BIP shall be further revised to provide more specifics related to ensuring that the Student's use of the emergency pass works as a positive behavioral intervention strategy. A copy of the revised Case Conference Report and IEP/BIP shall be submitted to the Division no later than **March 30, 2007**.

Conduct an in-service with regard to complying with the requirements of 511 IAC 7-27-7(b) including the activities identified in 511 IAC 7-17-72. The in-service shall include all teachers of record and all other special education and school personnel, including, but not limited to, all those who have specific responsibilities related to implementing IEPs. The in-service must address policies and procedures for documenting compliance with 511 IAC 7-27-7(b). A copy of the agenda, a list of all participants, notes and handouts shall be submitted to the Division no later than **March 30, 2007**.

Send a written memorandum to all relevant special education and school personnel regarding the School's compliance with 7-27-3(a)(3). A copy of the memorandum and a list of all school personnel who receive it shall be submitted to the Division no later than **March 30, 2007**.